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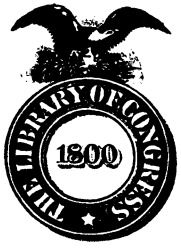

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LIMITING FEDERAL INJUNCTIONS

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE.

SIXTY-SECOND CONGRESS
SECOND SESSION

ON

H. R. 23635

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CODIFY, REVISE, AND AMEND THE LAWS RELATING TO THE JUDICIARY," APPROVED MARCH 3, 1911

Printed for the use of the Committee on the Judiciary

PART 1

WASHINGTON
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1912

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LIMITING FEDERAL INJUNCTIONS.

TUESDAY, JUNE 11, 1912.

SUBCOMMITTEE OF THE COMMITTEE ON JUDICIARY,
UNITED STATES SENATE,
Washington, D. C.

The subcommittee met at 10.30 o'clock a. m.
Present: Senators Sutherland (chairman), Root, and Chilton.

The CHAIRMAN. The committee has met for the purpose of considering House bill 23635, which is as follows:

AN ACT To amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 263 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby, amended so as to read as follows, and that said act be further amended by inserting after section 266 thereof three new sections, to be numbered, respectively, 266a, 266b, and 266c, reading as follows:

"SEC. 263. That no injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an opportunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined a reasonable time in advance of such application. But if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury is likely to ensue to the complainant, and that the giving of notice of the application of the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

"SEC. 266a. That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

"SEC. 266b. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

"SEC. 266c. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto."

The CHAIRMAN. We will proceed and hear Mr. Walker first.

STATEMENT OF MR. ALBERT H. WALKER, OF NEW YORK.

Mr. WALKER. Mr. Chairman, I desire to call attention to three or four matters of criticism in respect of this bill. I do not appear in opposition to the bill in its entirety; but I do wish to suggest to the committee some changes that ought to be made in it, if it is to be reported. The first suggestion which I wish to make relates to the first section and to the last sentence of that section only. That sentence reads as follows:

Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury, and state why it is irreparable, and why the order was granted without notice; and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

My objections to that sentence are the following:

It provides for prolixity of records and of proceedings, in that it provides that the order which is served upon the defendant, restraining him from doing a particular thing, shall not only define the injury which he is restrained from inflicting, but also shall state to him why it is irreparable, and state to him why the order was granted without notice. That is to say, the judge, when he issues an order to a defendant to refrain from doing a particular thing, shall give that defendant elaborate information as to why the order is issued. That is inconsistent with courts of equity and a new departure. A judge issues an order and that order is to be obeyed; but this section makes it obligatory on the judge to explain to the defendant why the order was issued, and also explain to him why the order was issued without notice. That is to say, the judge must, argumentatively and otherwise, vindicate his action to the defendant, instead of simply issuing an order to him, as called for by the principles and dignity which surround courts of equity.

Senator CHILTON. Do you object to these things being stated in the order when the court enters it? Do you object to that part of it? I mean in the court's decree.

Mr. WALKER. This section does not distinguish, as I think it should, between the decree that is entered in the record of the court and the paper that is served on the defendant.

Senator CHILTON. You see no objection to putting those things in the order of the court, do you?

Mr. WALKER. It depends upon what is meant by the word "order."

Senator CHILTON. I mean in the decree that the court enters?

Mr. WALKER. This sentence does not contemplate any decree. This is only a restraining order, issued without notice, and served upon the defendant. That word "order" in this section means the paper that is served on the defendant, and is not a decree that is entered in the records of the court. In equity proceedings in general, we know that a decree is entered in the records of the court, and then a writ of injunction is issued and served upon the defendant in pursuance of that decree. I know very well that decrees do and should set forth the grounds upon which they are granted. But the writs of injunctions granted and served upon defendants in pursuance of those decrees never have heretofore copied the decree in those respects, and there is no reason why they should.

Senator CHILTON. I was going to suggest if you would enter this in the decree of the court and then serve a copy of that decree upon the defendant, that would be the same as we are talking about now.

Mr. WALKER. This sentence contemplates that whatever order is made shall be served upon the defendant. My idea is whether the paper served upon the defendant is a writ of injunction in pursuance of a regularly entered decree or whether it is a restraining order issued without notice and pendente lite, and before there is any occasion for a decree, that that order should not be required by statute to defend itself to the defendant by explaining to the defendant the reason that actuated the judge in granting it. The order should speak ex cathedra and should not be required by statute to be supported by argument to justify its propriety. Whatever argument is necessary to justify its propriety may properly be entered in the final or interlocutory decree in pursuance of which the order is issued, but the order itself should go forth as an edict from the court.

A still more weighty objection to this sentence consists in the fact that it provides that these restraining orders, when issued without notice in emergencies, shall expire seven days from the time they are issued, subject to one renewal of seven days more in particular circumstances. It would often happen that one or more, and perhaps all, of the defendants would be able to evade service of the order for 7 days, and for 14 days, and it might be difficult to prove that the defendants had actual notice of the order in the absence of evidence that they were served with the order. So that if the defendants secrete themselves or otherwise evade actual service of an order for 7 days, or at the most for 14 days, then the order never would continue in effect any longer. The injury might be postponed by the defendant for 14 days and then perpetrated and perpetrated successfully. At present restraining orders as issued are liable to be vacated at any time within the discretion of the court, and the ques-

tion as to how long restraining orders should be effective ought, as I think, always to be left to the discretion of the judge.

The Congress sitting here can not take into account all the circumstances that might wisely guide that discretion in every one of the 80 district courts of the United States during a long period of time, and the Federal judge sitting in a particular case, who has the particular circumstances before him, can judge much better than Congress can as to how long restraining orders should be in effect in order to work justice.

It has been suggested by the minority of the Judiciary Committee of the House, who reported against this bill and criticized it, that that fault would be corrected by making the seven days begin to run from the time notice was served upon defendants instead of making it begin to run from the time the order was entered. The report of Mr. Moon, presenting the views of the minority of the Judiciary Committee of the House, stated that that change would correct the trouble and remove the objection which the committee saw and which I have stated to this committee. But it seems to me that that change would not remove that trouble. And it would introduce an element of confusion also, because the seven days would begin to run, according to that suggestion, from the time the order was served on the respective defendants; so that as to some of the defendants the restraining order would be in force and as to others it would not. I think an order ought to be in force as to everybody or not in force as to anybody, as a general rule, at least; and that an element of uncertainty would be introduced by providing that the seven days during which an order should be living should begin to run in the case of each defendant from the time when the paper was served on him.

Besides, this section does not contemplate or take into account the well-known and necessary point in equity jurisprudence that injunctions are binding upon defendants who have actual kowledge of them without any service of any paper. It is well known to the members of the committee that if some defendant attends court in a case about to be decided and he infers, after the judge has been reading his decision for a while, that the decision is going to be against him and he immediately steps out of the court room and does the thing which he apprehends in 10 minutes he will be enjoined from doing, in such case he is as guilty of contempt as if a regular service of a writ of injunction had been made upon him.

All the learning and foundation upon which equity jurisprudence has been built for a long time to enable the courts of equity to prevent wrongs perpetrated by a defendant under the various circumstances under which they may be perpetrated, seem not to have been in the mind of the gentleman who drew this section. He dealt with the problem in much too simple terms, as if such proceedings nearly always follow one very narrow path, whereas they do not, but are as various as the cases are. Therefore I should recommend to the committee that the first section be amended by canceling nearly all the last sentence, or at least the latter part of the last sentence. I say at least the latter part of the last sentence, because the first part which provides that "Every order shall be indorsed with the date and hour of issuance and shall be forthwith entered of record," is a harmless provision which merely represents the present practice of

the courts. That first section purports to revise section 263 of the Revised Statutes. The rest of the bill purports to add three sections to the law, which have never been in the United States statutes before, and which constitute three new departures from the law as it now stands.

Let me now speak of section 266a, which is short, and I will read it into the record:

That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant, in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

The adverse report of the minority of the Judiciary Committee of the House stated that the gentlemen who signed it had no particular objection to that section, but they commented upon the circumstance that no reason had been submitted to the committee at any time for its enactment. I have a very strong objection to that section, which did not occur to the minority members of the House Judiciary Committee.

Writs of injunction in Federal courts are the only effective means of enforcing the patent laws of the United States, and among all writs of injunction that are granted by the district courts of the United States those which are granted in cases of infringements of patents constitute by far the more numerous class. The law upon the subject of securities is well settled as a matter of case law. A case of patent litigation is conducted in this manner: A complaint is filed by a patentee against an alleged infringer, setting forth that the complainant's patent is valid and that the defendant has infringed it. Thereupon elaborate testimony and other evidence is taken upon those points, and ultimately, in many cases, perhaps in most cases, the court finds that the patent is valid, that the complainant owns it, and that the defendant has infringed it. Thereupon the court enters an interlocutory decree establishing those propositions and orders that an injunction shall issue against the defendant restraining him from infringing the patent any more, and also orders that a master in chancery shall take and state an account of the money recovery which the complainant is entitled to receive on account of the infringements which have already occurred. This writ of injunction is the only remedy of general applicability in patent cases, because our laws in respect of money recoveries in cases of infringement of patents are such that it is difficult for any considerable amount of money to be recovered even where infringement is undeniable. These are cases with which I am perfectly familiar after having studied the patent laws for 40 years; and, although it would take a long time to explain the subject fully to you, I assure the committee that I am right upon the point. The case law regarding giving security in patent cases is as follows:

It is within the discretion of the judge to refuse to grant any injunction, unless the complainant will give security for the damages to be inflicted on the defendant, in case the injunction is ultimately dissolved by a higher court. It is also within the discretion of the judge to refuse to grant an injunction at all if the defendant will give a bond to secure whatever damages may be inflicted upon the complainant, in case his right to the injunction shall thereafter be con-

firmed. So, the giving of bonds by the complainant, or the giving of bonds by the defendant, or the non-giving of bonds by anybody, is entirely within the discretion of the court; and that discretion has never, so far as I know, been unwisely exercised. I have been acquainted with patent cases all over the country for more than a quarter of a century, and I have read the reports of all of the cases that have been decided, except those decided recently; and I assure the members of the committee that there is no necessity for any legislation to regulate the discretion of judges in respect of requiring or nonrequiring of bonds in patent cases. But this section provides that no interlocutory injunction shall ever be granted to restrain the infringement of a patent, unless a bond is first given by the complainant; because the language is broad enough to comprehend patent cases. It says, that no restraining order or interlocutory order shall be granted, except after the complainant has given security in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby. Now, how would that work. Let me state a concrete case in my own practice, and show to the committee how badly that would have worked if it had been the law.

Many years ago I had a client who had a patent on a railroad-car brake of very great utility and value. The Baltimore & Ohio Railroad Co. copied, on all its passenger cars, the drawings of that patent and, undeniably, willfully, and defiantly infringed the patent for many years. My client brought an equity suit against that corporation for that infringement. The case was decided in favor of my client, and the patent was found to be valid, and there was no denial of infringement. An interlocutory decree was entered referring the case to a master in chancery to state the amount of the money recovery that my client was entitled to, and also for an interlocutory injunction. If this section had been the law at that time, that injunction could not have been granted unless my client had given to the Baltimore & Ohio Railroad Co. a bond to secure whatever loss it might theoretically incur by being compelled to take those brakes off from all those cars.

There was not one chance in a million the Supreme Court would dissolve that injunction, but theoretically at that time the Baltimore & Ohio Railroad Co. had a right to appeal to that court from that decree, and such a statute as this would, therefore, have practically said to the circuit court, "You shall not grant any injunction to that man at all," because it would have been as impossible for my client to have given such a bond as the railroad company would have required as it would have been for him to pay the national debt.

Senator CHILTON. Don't they still leave it within the discretion of the court? It says "such sum as the court or judge may deem proper."

Mr. WALKER. That discretion would not be properly exercised, unless the judge should make the bond commensurate with the injury that might theoretically be inflicted on the defendant, by an improvident injunction. The defendants might say, "Your honor, if we are compelled to take those railroad brakes off, it will injure the Baltimore & Ohio Railroad Co. a million dollars." "And if the

Supreme Court decides that we should not be compelled to take the brakes off, then we will be damaged to that amount."

Senator CHILTON. That would not occur until the Supreme Court would decide on it, would it—that is, until the final decision? They would not be required to take the brakes off until the final decision?

Mr. WALKER. They certainly might. If injunctions could not be enforced by the courts of first instance without first going to a higher court on an appeal, the delays incident to patent litigation would be so great that the right to an injunction would not be of much value. Indeed, the United States district courts all over the country are constantly enforcing injunctions in patent cases, without giving the defendants any opportunity to appeal before the injunctions are enforced.

The CHAIRMAN. The court would not issue a restraining order mandatory in form, would it?

Mr. WALKER. In a patent case?

The CHAIRMAN. In any case.

Mr. WALKER. Certainly.

The CHAIRMAN. A restraining order?

Mr. WALKER. A writ of injunction.

The CHAIRMAN. I am speaking only of a restraining order granted without notice. A final injunction may in some cases be mandatory in form. I do not understand that the courts ever make a restraining order which is mandatory in form?

Mr. WALKER. I will clear up your misapprehension of my meaning, Senator. I will call attention to the section which I am now considering. It speaks of restraining orders and also of interlocutory orders; and it provides in both those classes of cases that bonds shall be required. I have no objection to a bond being required in the case of a restraining order, and I am not discussing that subject. But the decrees that are entered by the district courts, in pursuance of a full presentation of all the merits of the cases, are strictly interlocutory orders, and are so called. The final decree that is sometimes entered by a district court, never comes until after a master has reported the amount of money which the complainant is entitled to receive; and in most cases such final decrees are not made at all. The real crux of patent litigations consists in the obtaining or not obtaining of interlocutory decrees; and those interlocutory decrees are of the utmost importance to litigants. If they can not be had without giving bonds to secure damages for whatever injury may be theoretically inflicted upon defendants by erroneous injunctions, then they can not be had at all by poor inventors against wealthy infringers.

Senator CHILTON. As I understand, we speak of the final order; that is the order from which you can appeal. That is what we mean by a final order. You can only appeal from the final order. Is not the final order the one which adjudicates the principles of the case, which decides which side recovers? For instance, if the court decides that A's patent is good and that B has infringed it, could you not appeal from that decree, even before the amount shall have been ascertained?

Mr. WALKER. You can thus appeal. But such an order is not a final decree. It is only an interlocutory decree. If you will allow me to explain it, I will try and do so. Prior to 1891 appeals could

be had only from final decrees which settled the amounts of money recoveries. But the judiciary act of 1891 introduced a new departure into our jurisprudence, and provided that interlocutory decrees that are entered after all the questions are settled, except the amount of the money recovery, may be appealed. The circumstance that Congress 21 years ago did make those interlocutory decrees appealable did not make them final decrees. The law still continues to exist since 1891, as it did before, that a second appeal may be taken from the final decree, if the defendant has occasion or is advised to take a second appeal. But as litigation is conducted now, since the judiciary act of 1891, the critical point in any patent case is the interlocutory decree. It is called an interlocutory decree in the statute of 1891. It was always an interlocutory decree and nothing but an interlocutory decree, but the statute of 1891 made it appealable for the first time.

This section, 266a, in speaking of that kind of a decree, an interlocutory decree, does not modify the act of 1891. It leaves such a decree appealable by the defeated defendant, but provides that it shall not be granted at all, unless the complainant shall give a bond to secure to the defendant all of the loss that he would theoretically incur in case the interlocutory decree comes to be reversed on an appeal, which may be taken from it. As it stands at present, if the judge has any doubt of the correctness of his decision, he exercises his discretion to refrain from granting any interlocutory decree, except upon terms that the complainant will give a bond; and I never knew of a case where a judge was asked to exercise that discretion, and where it ought to have been exercised, in which he did not exercise it. But this section tells the judge he must positively require the complainant to give a bond, perhaps in an enormous sum and perhaps far beyond his means. Although you yourself, if you are a judge, are perfectly clear as to a patentee's rights, and know that an injunction is essential to maintaining those rights, you shall not give him that remedy for the wrongs, which you are perfectly sure have been inflicted upon him.

Gentlemen of the committee, I assure you from a thorough acquaintance with this whole subject during a lifetime, you might almost as well repeal the patent laws as to enact this section 266*a*, because you would thus be taking away from poor inventors the right to secure from courts the relief which the law allows them, except upon terms to which those poor inventors could not conform.

As the minority report of the Judiciary Committee of the House states, there never was anything said to that committee in favor of any such legislation, and nobody told any story that indicated any harm that had been done, resulting from reposing discretion in the courts relevant to requiring bonds of complainants in equity cases. I can not protest too emphatically against a plan to deprive the Federal judges of the power to administer equity, as they have been administering it for a hundred years, in cases where it would be the wealthy and powerful who would win as the result of nonadministration of equity, and the poor who would suffer on account of that nonadministration.

Section 266*b* provides:

> That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe

in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained.

I object to that provision, because in patent cases—I will speak of patent cases particularly, but what I say about them will also be applicable to some other cases—it is generally impracticable and quite useless to describe in a writ of injunction the act or acts sought to be restrained. For instance, take complicated automatic or electrical machines that are often the subjects of patent litigation. No human being can, without using thousands of words, describe in detail and without reference to any other document any such machine. The proper course, which has been pursued in patent cases without any trouble at all for many years, has been that the bill of complaint specified the patent upon which it is based, by its number, by its date and its name, and made profert of the letters patent itself, and that profert incorporated that document into the bill of complaint.

Thereupon, if the defendant filed an answer, he filed an answer in such terms as he pleased. Patent litigation depends mainly upon similarities and differences in complicated mechanism and processes. The parties become perfectly acquainted with the issues. When the judge decides a case in favor of the complainant, the defendant knows what machines he has been making, selling, or using, and he knows precisely upon what ground the judge has held that those machines infringe the complainant's patent. But this section 266b provides that the writ of injunction shall describe to the defendant his own machines in detail, which is an act that is quite unnecessary, and could not be accomplished except by high experts, who might use many thousands of words in doing so. The law upon the subject of definitions in writs of injunction is well settled now.

Senator CHILTON. Don't you think that that is a little unfair? It says, "shall describe in reasonable detail."

Mr. WALKER. I did not fail to notice the word "reasonable." But detail is none the less detail because it is reasonable.

Senator CHILTON. You do not think a man in describing a farm would have to describe the fence, each panel, the gate, the posts, the house, the chimney, and all that?

Mr. WALKER. That is not analogous to describing machinery, because a farm can be described by metes and bounds.

Senator CHILTON. My first suggestion would be unreasonable detail?

Mr. WALKER. To describe a farm by metes and bounds or by quarter sections would be reasonable. But that does not apply to machines, for machines can not be described in any such way. There is no occasion for any such legislation as this, because the injunctions that are issued now are issued in such terms that the defendants need not have the slightest doubt as to what they are prohibited doing. A defendant is prohibited from using the machines that he has been using. He knows his machines perfectly well and knows he must stop using those machines. There is no necessity for Congress to enact a statute whereby any writ of injunction served by a United States marshal shall contain a detailed description of any machine.

Section 266c contains much matter which I could criticize, but other gentlemen here will attend to most of its points. I will confine

what I have to say to a small portion of the matter which is covered by that section. In order that my criticism may be understood, I will read only such portions of the section as relate to my criticism. Section 266c provides "that no restraining order or injunction shall be granted by any court of the United States or a judge or the judges thereof in any case between an employer and employees, or between employers and employees, or between employees" except under certain circumstances.

That is the class of cases which is attended to by that section, and I wish to criticize it. The last paragraph relating to that class of cases reads as follows, in part:

> And no restrining order or injunction shall prohibit any person or persons * * * from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do.

The language which I have read would operate to impede the courts in restraining boycotting. The Supreme Court, in the Danbury Hatters case, decided that boycotting violates the Sherman law, and held that it is as rightly subject to the restraints of the Sherman law as are combinations between capitalists to restrain interstate trade and commerce. This bill, as it was presented to the Judiciary Committee of the House last January, legalized boycotting in every respect, and provided, in undeniable terms, that boycotting was to be legalized in every shape. Nobody should be restrained from it; nobody should be punished for it; and nobody should be compelled to pay any damages inflicted upon any private party as a result of boycotting. In January, 1912, I stated, with some vigor, before that committee my opposition to that bill. The result was that the committee pared down the bill, so as no longer to eliminate from the law the liability of boycotters to those who are injured by their boycott, and no longer to eliminate from the law the criminality which results from boycotting.

Section 1 of the Sherman law provides that persons guilty of combinations in restraint of interstate trade shall be punished by fine and imprisonment. Section 4 provides that such persons shall be restrained by writs of injunction from continuing their combinations in restraint of trade. Section 7 provides that whenever parties do combine to restrain such trade, they shall be liable to pay damages to any party whom they injure by their combinations.

Senator CHILTON. Do you understand that individuals sue in those kinds of cases or the Government?

Mr. WALKER. Individuals, under section 7.

Senator CHILTON. To restrain persons from violating the Sherman law?

Mr. WALKER. No; I am speaking of suits for damages.

Senator CHILTON. I mean to enjoin a person from violating the Sherman law as it affects an individual. Do you understand an individual can do that?

Mr. WALKER. The Sherman law does not provide that. There are four remedies provided by the Sherman law. One remedy is that the Government may prosecute violators of the Sherman law criminally. Section 4 provides that the Government may restrain violators of the Sherman law by equity proceedings. Section 6 pro-

vides that the Government may enforce forfeitures of transported property which is the subject of violation of the Sherman law. Section 7 provides that private parties may recover damages from those who inflict injury upon them by violations of the Sherman law.

Senator CHILTON. Has your attention been called to where this would leave the Government in these suits?

Mr. WALKER. I have called my own attention to it.

Senator CHILTON. I mean your attention has been directed to it.

Mr. WALKER. Yes. I think there are few things about the Sherman law that I have not thought of. The language of the proposed section 266c is:

> That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, etc.

Boycotting is illegal, not only under the Sherman law, but illegal under the principles of general law, as was decided before the Sherman law was enacted. While this section does not in terms provide that the Government shall not have power to restrain boycotting by means of equity suits, it does provide that no such injunction shall be issued in any case between an employer and employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, etc.

In so far as the Government would intervene by actions in equity to enforce the fourth section of the Sherman law against boycotts I should hope that even if this section 266c was enacted it would not be found to constitute an obstacle to that intervention; but I am not sure about that. Moreover, if the Sherman law is to be supplemented by additional legislation, as it seems to me is likely, it is not improbable that in the wisdom of Congress it will be decided that injured parties ought to have relief in equity as well as in law for wrongs inflicted upon them by combinations in restraint of trade.

Mr. DAVENPORT. Would it throw any light upon the question that is now being discussed with regard to the inquiry of Senator Chilton to say that Justice Harlan, Judge Lurton, and Judge Taft in the Addyston Pipe case declared that private parties have a right to protect themselves by injunctions from the injuries sustained under the Sherman law, as well as the Government?

The CHAIRMAN. But not on the ground that it was in restraint of interstate trade.

Mr. DAVENPORT. Surely.

Mr. WALKER. That was not actually adjudicated in the Addyston Pipe case.

Mr. DAVENPORT. It was so stated. Of course, there are contrary decisions. Courts of appeal differ; but in the Danbury Hatters' case we got an injunction in the State of California.

The CHAIRMAN. The injury complained of was an injury to your business, was it not?

Mr. DAVENPORT. Surely.

The CHAIRMAN. And it was not an injury to interstate commerce?

Mr. DAVENPORT. It was an injury to business sustained by reason of the violation of the Sherman law. The idea that we are confined to suit for damages under the seventh section is one——

The CHAIRMAN. What I am trying to get at is, the injunction was issued irrespective of the Sherman act.

Mr. DAVENPORT. The facts alleged brought it within that act, and also within the common law; and the injunction was granted. It was found in that case that this act, as Mr. Walker says, was in violation of the common law and also of the Sherman law. I call the attention of the committee to the language of Judge Taft in the case of Addyston Pipe Co. *v.* The United States, which was afterwards approved by the Supreme Court of the United States.

Senator CHILTON. What I was inquiring about was: Whether or not there was any case wherein the Sherman law and the acts done under it were stated as jurisdictional facts, upon which to get into the Federal court as a Federal court, or into a court of equity as a court of equity. That was the point.

Mr. DAVENPORT. I have not in mind any case where the very things that are forbidden by the Sherman act are not forbidden by the common law. That was the fact in the Debs case.

The CHAIRMAN. Perhaps I did not make myself clear. The point of my inquiry was whether or not any private person, no matter whether his business or property was injured, could maintain an action under the Sherman Act to restrain an interference with the free flow of commerce among the States upon that ground; not upon the ground that it was an injury to his business, but upon the ground that it interfered with the commerce among the States?

Mr. DAVENPORT. In the case of the State of Minnesota *v.* The Northern Securities Co. (194 U. S.) it is stated that unless the party can show that he sustained some injury over and above what the public generally sustained he can not go into equity; and the implication from that statement is that where a party has sustained such injury he can sue in equity. I also call attention to the fact that the same justice who wrote that opinion, Justice Harlan, concurred with Judges Taft and Lurton in the Addyston Pipe case.

The CHAIRMAN. But upon the ground that it interferes with his business, and not upon the ground that it merely interferes with the interchange of commodities.

Mr. DAVENPORT. Of course it is interstate commerce.

Mr. WALKER. The Sherman law in its first section, as I said awhile ago, provides for criminal proceedings, which may be instituted by the Government. The fourth section provides that the Attorney General of the United States may bring equity proceedings. The seventh section provides that injured parties may bring actions at law to recover damages for injuries inflicted. The Sherman law does not expressly provide that private parties may sue in equity and get injunctions to restrain violations of that law. The observations which Mr. Davenport has collected out of the Addyston case were not actually adjudicated in that case.

Mr. DAVENPORT. If the committee will look at the case of Bigelow *v.* Calumet & Hecla Mining Co., as reported in the 155 Federal Reporter, you will find it is precisely that case.

The CHAIRMAN. Precisely what case?

Mr. DAVENPORT. A case where a party brought an action in equity to restrain a violation of the Sherman Act. The case was heard by Judge Knappen, and he elaborately considered the authorities and granted the injunction. On appeal to the circuit court of appeals Judge Lurton gave the opinion. He held that what was done was not a violation of the Sherman Act, but spoke approvingly of the injunction that was issued as being within the jurisdiction of the court below, apparently having in mind, I suppose, what he and Justice Harlan and Judge Taft said in the Addyston case. However, the circuit court of appeals for the second circuit, when held by Judges Lacombe, Ward, and Noyes, decided the reverse. I think no one can read the opinion of Justice Harlan, in delivering the opinion of the Supreme Court in the case of the State of Minnesota against the Northern Securities Co. in 194 United States, and not conclude that it was the intent of that court to substantially declare that where a person sustains or is threatened with an injury to his business or property by reason of unlawful acts forbidden by the Sherman law he can go into equity.

Mr. WALKER. Whatever may be the weight of conflicting opinions upon that question, this is certain, that boycotting is wrong. And it is wrong not only because it violates the Sherman law, but because it violates the principles of the common law to combine in restraint of interstate trade by means of boycotting, particularly when it includes secondary boycotting. I say of boycotting as Abraham Lincoln said of slavery, "If boycotting is not wrong, then nothing is wrong."

Among the most powerful public pronouncements that have lately been put forth by anybody were those put forth by Mr. Taft in 1908, when denouncing boycotting, and particularly secondary boycotting. It is not now a good time for the Congress of the United States to legalize boycotting or to do anything in the direction of legalizing boycotting. I stated awhile ago that this bill, as it was introduced into the House of Representatives, legalized boycotting in all its aspects and absolutely prevented any Federal court from doing anything with boycotting, either on its criminal side or in equity, or on the complaint of any party injured by boycotting. That bill was so outrageous that nobody could say anything in favor of it except that he wanted Congress to pass it. The House reduced the objections down to much narrower grounds.

The CHAIRMAN. The bill, as I read it, does not exempt the so-called secondary boycott from injunctions.

Mr. WALKER. I think it does.

The CHAIRMAN. Where it says:

> No such restraining order or injunction shall prohibit any person or persons from ceasing to patronize or to employ any party to such dispute.

Mr. WALKER. But to go to the last few words of the sentence, "or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto," that covers secondary boycotting like a blanket and exempts it from injunctions.

The CHAIRMAN. "Or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto." In the absence of a dispute it would not be lawful for parties to combine to break up the business of some person, would it?

Mr. WALKER. Take the case of secondary boycotting in the Danbury hatters' case. In that case, the defendants instituted a primary boycott, and also a secondary boycott, and they instituted the secondary boycott to the extent of withdrawing patronage from merchants in San Francisco, who had some hats which they had bought from Loewe in Danbury. The scheme was to utterly crush Loewe by withdrawing patronage from every clothing merchant throughout the United States who would handle any of his hats. There is not the slightest doubt in my mind but what that last language in section 266c was artfully drawn for the purpose of forbidding injunctions against boycotting, whether primary or secondary. That is what this bill is largely for. It is hardly possible, in the bill that was presented to the House by Mr. Gompers, that he and those who advised him or assisted him, were so careless as to omit from the proposed statute some effective language adapted to cover the very purpose which they are trying to execute. The scheme of the bill as it was presented last January was to legalize primary boycotting and to legalize secondary boycotting in every aspect. Now the House committee has reported, and the House has passed a much milder bill; but still that milder bill contains remnants of the old poison and the old wrong; and those remnants ought all to be eliminated before the present bill is enacted into law.

I believe that we are, in this country, on the eve of a dangerous conflict between wealth and work. The law, as it now stands, holds its right hand ready to restrain wealth from encroaching upon work and holds its left hand ready to restrain work from encroaching upon wealth; and it is contrary to the public welfare, and contrary to the administration of justice, for the law to drop or disuse either of those hands. But this bill proposes to weaken the grasp of the law upon work while not weakening it upon wealth. Work, being representative of an enormous power in respect of numbers and physical force, requires at times to be restrained, and the laws that exist now do not restrain work more than it ought to be restrained in the interest of general public justice. Legislation which would enact that conduct which is wrong when done by capitalists is legalized when done by the employees of capitalists would be class legislation, which I should view with regret.

Senator CHILTON. Do you not think the correct theory would be within fixed principles of law; that it is the best thing to take our hands off both of them?

Mr. WALKER. No; certainly not. The powers which result from organizations of capital and the powers which result from organizations of labor are already so great and so growing that strenuous conflicts between those two great classes of organizations must be restrained and regulated by legislation or they will lead to bloody collisions, amounting, perhaps, to civil war.

STATEMENT OF MR. WALKER D. HINES.

Mr. HINES. Mr. Chairman and gentlemen of the committee, I appear here on behalf of a number of railroad companies, including the Atchison; Baltimore & Ohio; Central of Georgia; Chesapeake & Ohio; Chicago & Alton; Rock Island; Chicago, Milwaukee & St. Paul; Delaware & Hudson; Erie; Illinois Central; Missouri Pacific;

New York Central; Norfolk & Western; Southern Pacific; Union Pacific; Southern; and Wabash.

While I appear on behalf of these railroad companies, any views I may express on questions of policy involving this legislation are based upon a long direct experience in the railroad business, including a long service with the Louisville & Nashville Railway Co. as assistant chief attorney and afterwards as vice president, and subsequently and at present service with the Atchison, Topeka & Santa Fe Co. as general counsel and as chairman of the executive committee.

Railroads are vital to the people; are held to strictest accountability, and are entitled to adequate protection.

I want to present to you gentlemen the peculiar status of the railway companies as related to this legislation. They occupy a status radically different from that of the ordinary manufacturing institution which would be affected by this legislation. The railway companies are engaged in a public service which is vital to the people of this country. The people of this country are absolutely dependent upon the railroad service of the country for the transportation of the mail, for the transportation of freight, for the transportation of passengers, and, in general, for the ordinary conduct of social and business intercourse. On account of the fact that the railway companies are engaged in this public service they are held to the strictest accountability, and I say because of that fact they are entitled to the adequate protection of the law and the courts in discharging the public duties, to the discharge of which they are so strictly held.

Congress has imposed on the railroads numerous grave duties.

By way of illustration of the accountability to which the railway companies are held, I wish to call attention to a few provisions of acts of Congress.

In the interstate commerce act, section 1, it is made the duty of every railroad company subject to that act to provide and furnish transportation upon reasonable request therefor, to provide reasonable facilities for operating through routes; to establish, observe, and enforce just and reasonable regulations and practices which may be necessary or proper to secure the prompt receipt, handling, transportation, and delivery of property subject to the provisions of this act. It will be observed at once that these statutory duties are the very duties that would be interfered with in the event strikers were guilty of any unlawful conduct toward the railroad company.

Again, section 3 of the act provides that every common carrier subject to the act shall afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith. Those provisions were the very provisions which the railway companies were largely prevented from complying with by the strikes of 1893 and 1894.

By section 6 it is provided that the common carriers must furnish statements of rates, upon request made therefor, to the agent of the common carriers, and that the names of the agents shall be posted in the station. So in this way the station agents are a statutory part of the machinery which the railroad companies must supply

in order to perform these statutory duties, and any interference with the status of these railroad agents by strikers or otherwise would be an interference with its statutory duties.

Again, section 7 of the interstate commerce act provides that it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier, unless such freight, stoppage, or interruption was made in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of the act, shall be permitted. There again is a provision which I take it would have been violated if any railroad company had acquiesced with its employees in the course which was advocated by the strikers in the strikes of 1893 and 1894.

Section 10 of the act to regulate commerce imposes penalties not only upon the common carrier which violates provisions of the act, but also upon agents or persons acting for or employed by such common carriers.

Section 20 of the act requires the common carriers to render full annual reports to the Interstate Commerce Commission, also monthly reports, authorizes the commission to prescribe the forms of accounts, records, and memoranda which the carriers may keep, and requires the carriers to keep these accounts, records, and memoranda, and makes it unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission, and declares:

> Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the commission, shall be deemed guilty of a misdemeanor.

I call attention to the fact that the railroad companies in performing the very important statutory duties which are imposed upon them by section 20 must rely very largely upon their station agents. I call attention also to the fact that the strikers, or those seeking to help them, in some recent cases have found it quite an assistance in obstructing the passage of interstate commerce to persuade agents to falsify those accounts, to tear off records attached to cars, transfer the records and mix up the cars so that nobody would know where they were destined. In other words, they have taken various steps which would directly interfere with the railroad companies complying with these important provisions of section 20 of the act to regulate commerce.

Again, section 20 states every common carrier subject to the act "receiving property for transportation from a point in one State to a point in another State shall issue a receipt or bill of lading there-

for," thereby again imposing a duty upon the railroad company which can only be carried out by its agents.

The Elkins Act, in section 1, declares, "In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper as well as that of the person." So, the direct criminal liability is put upon the railroad company itself for any conduct on the part of any employee which results in the violation of the Elkins Act.

I call attention also to the safety-appliance acts which have been adopted by Congress. Compliance with these acts necessitates the most rigorous inspection of rolling stock that can only be done by employees selected for that purpose, and that can readily be interfered with and the statutory requirement for compliance with the duty of the railroads can be interfered with, if strikers unlawfully interfere with the action of employees who are selected for the purpose of making the inspection which it is necessary to make in order to comply with the acts of Congress.

These are simply illustrations of the general proposition that the railroad companies are public servants and are held to very strict accountability in that respect, and in recent years in this country the acts of Congress have imposed upon them very numerous and very important statutory duties which can only be carried out by the cooperation of the employees selected for that purpose. I repeat, that since the companies are held to such responsibilities they are entitled to adequate protection in trying to discharge those responsibilities.

These statutory duties are what strikers try to interfere with. concrete examples.

When there comes a disagreement between the railroad companies and any portion of its employees which can not be settled and the employees elect to insist upon their position by a strike it is notorious that thereupon it becomes the object of the strikers to compel the railroad companies to accede to their demands through breaking down the railroad operations, through preventing the operation of trains, preventing repairs to the cars, interfering with station agents, yard employees, and others for the purpose of so interfering with the business of the railroad company as to compel the railroad company to comply with the demand of the strikers.

Now, so far as the strikers have a lawful right to adopt that course, and undoubtedly they do have a right, by terminating their employment, to put thereby a certain form of coercion upon the railroad company itself, so far as that lawful right exists, there is no occasion for discussing it here.

The proposition I think this committee will wish to consider is when strikers violate the legal rights of the railroad company and the public, then whether there shall be or shall not be an adequate remedy to deal with that great public wrong.

In order to get this thing down to a concrete basis I want to read a few extracts from the Daily Strike Bulletin, which was published at East St. Louis last November during the strike on the Illinois Central. This Daily Strike Bulletin had a big heading across the

front page called "Our progress"; then under the heading of "Our progress" it went ahead and set out the "progress" that had been made in preventing the running of trains on the Illinois Central, every step in this direction representing a step in the interference with the rights of the people of the United States.

For example, under the issue of November 11, 1911, there is this statement under the heading of "Our progress":

At Evansvile, Ind., the situation remains as the day the strike was called. Engines failing on every trip and freight yards are badly blocked. Fifty cars billed the 12th of October are standing in the yards loaded with perishable goods. This looks like normal business, doesn't it?

Bear in mind that if that was accomplished by unlawful means that accomplishment represents an illegal act toward the people of the United States who are dependent upon that transportation service, as well as an illegal act toward the railroad company. Here is another statement in the same bulletin:

At Memphis, Tenn., the strike is showing its effect on the company, as the rolling stock is helpless. Passenger trains have to stop every 8 or 10 miles to allow time to get steam up, as the boilers are all leaking so bad that it is impossible to keep them hot.

Here is another:

Waterloo, Iowa, shows up fine—yards blocked with loaded freight cars that have been there for 30 days, and nobody knows where these cars are billed for or where they came from.

The reason nobody knew where they were billed for or where they came from was that people had removed the cards which were attached to these cars which identified them, or had destroyed the waybills. Now, if those acts were done unlawfully, I say the railroad company in its own right, and in the right of the public, was entitled to adequate protection.

The CHAIRMAN. The committee will have to adjourn in a very few minutes to go upstairs to attend a session of the Senate, and when you reach a point that you can suspend I wish you would do so.

Mr. HINES. I will read one or two more of these extracts and suspend. I call attention to the following statement under the heading of "Our progress" from the Daily Strike Bulletin of November 15, 1911. The headline is "Stops selling tickets south of Cairo, Ill." Then there is a subheadline "Bulletin says I. C. passenger traffic is tied up in the South."

A bulletin received to-day at Burnside from Cairo, Ill., says the Illinois Central has stopped selling tickets to any city south of Cairo and that no train has passed through Cairo southbound since yesterday morning on account of the complete tie-up of the road by the striking shopmen.

PASSENGERS FEAR WRECK.

Tickets are still being sold in southern cities for points north of Cairo, but trains are later than ever. Freight trains are not running at all or are making only short trips between adjacent cities. The general traffic is tied up more completely on the southern half of the road than on the northern half.

A number of people call up the Daily Socialist every day to inquire whether conditions on the Illinois Central are such that a passenger would be safe in making a trip to the Southern States.

Heretofore the only great inconvenience suffered by the travelers have been the innumerable and long delays and dead stops on account of engines "dying" on a trip. But it is impossible to say what may happen.

The public and the railroads are entitled to adequate protection against all unlawful acts, thus nullifying the performance of the public duties of railroads.

Now, I repeat that if these acts of stoppage of interstate commerce were brought about by unlawful means the railroad companies of the country, and through them the public, are entitled to adequate protection to enable them to discharge their duties, and the question which I wish to discuss when it suits the convenience of the committee to take this matter up again is, whether this bill unreasonably interferes with the adequate judicial protection to which the railroad companies are entitled against unlawful acts to enable the railroad companies to discharge those duties which are of such vital importance to the people of this country.

The CHAIRMAN. Let me ask you, were any of these acts which you have referred to of such a character that an action might have been maintained to enjoin them?

Mr. HINES. Yes; I understand they were. I understand such suits were brought, and the history of those cases illustrates the difficulties in enforcing injunction in cases of this sort, even under the present procedure, and emphasizes how much greater those difficulties would be and, in fact, how impossible it would be to get any effective injunctive relief if this bill were to become a law.

I do not want to do anything out of the way, but I would like to say, so far as I have observed, this particular aspect of this subject—that is, the relation of this legislation to the railroads—has never been brought clearly to the attention of either House, and I regard the analyses that I make as a matter of very great interest to the railroads; and I want to express the hope that if it will suit the convenience of the committee as many members of the committee as possible will be present to hear this branch of the discussion.

The CHAIRMAN. We will now take a recess until 2.30 o'clock p. m.

Thereupon at 12 o'clock p. m. the subcommittee took a recess until 2.30 o'clock p. m.

AFTER RECESS.

The subcommittee met after recess at 2.30 p. m.

Present: Senators Sutherland (chairman), Root, and O'Gorman.

The CHAIRMAN. You may proceed, Mr. Hines.

Mr. HINES. As I stated just before the recess was taken, I think so far as the railroad companies are concerned the inquiry should be whether this bill impairs the effective remedy to which the railroad company and the interest of the public is entitled by way of protection against wrongful acts. Of course it should be borne in mind that this bill relates only to relief in equity and that equity only affords relief in these matters when there is no adequate remedy at law. If, therefore, we find the situation to be that there is a wrongful act as to which the railroad company needs equitable relief and as to which this bill affords no relief in equity, then the situation is that in that respect the railroad company is denied any remedy whatever, for it could not go into equity under the present practice unless the remedy at law was inadequate. Then the proposition is, granting that the remedy at law is inadequate, this bill prevents

the only remedy that is left in the event it denies the injunctive process in any case of wrongful acts.

A railroad strike involves great extent of territory, vast numbers of strikers, and frequently discloses that the local communities sympathize with the strikers in stopping interstate commerce.

Preliminary to discussing the first section of the bill, or rather section 263 as proposed to be amended by this bill, I want to call your attention to the situation which in practice confronts a railroad company in the case of a serious strike.

The strikers seek to carry their point by obstructing the railroad company in the conduct of its business; in other words, they seek to carry their point by preventing the rendition of the public service which it is the railroad company's business and its statutory duty to render. It is well known among railroad people in dealing with these situations that a great deal of the obstruction occurs at places along the lines where the local officers are in sympathy with the strikers and show little, if any, disposition to assist in keeping the railroad open for operation. Their primary interest seems to be on behalf of the strikers, and their interest on the broader proposition of keeping open a channel of commerce is more remote and does not influence them. In some instances the towns where the trouble occurs are small and the strikers are probably in the majority and are the majority of voters, and in that event you have a situation where a great public instrumentality is absolutely at the mercy of a hostile local community, unless there is relief by some Federal tribunal.

Now let us assume the case where a railroad finds its operations are to be paralyzed by some unlawful acts of a strike and desires to get relief through an injunction. I am putting this case for the purpose of illustrating the operation of section 263 of this bill, which regulates the issue of restraining orders. The railroad company finds that in a given judicial district it has several hundred miles of railroad, perhaps a thousand miles or more; that there are several hundred and perhaps several thousand strikers in that judicial district scattered over this wide extent of territory, perhaps more than a day's journey from where the court sits. Under those conditions the railroad company files its bill in the United States district court and applies for an interlocutory injunction.

Section 263 so limits restraining order that it will expire before interlocutory injunction can issue, so that the public interest will have no protection in the interval.

Section 263 would operate on that situation and I read a portion of that section in order to show just how it would operate:

> No injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an opportunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined, a reasonable time in advance of such application.

The company is now dealing with a situation where there are several hundred or perhaps several thousand people to be enjoined, and they are scattered over a territory of possibly several hundred miles in extent. Then there is a provision—

> But if it shall appear to the satisfaction of court or judge that immediate and irreparable injury is likely to ensue to the complainant, and that the giv-

ing of notice of the application or the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order shall be endorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, etc.

Then we have this situation: The railroad company in order to make its motion for this interlocutory injunction must serve notice, together with a copy of the bill of complaint, on each of the parties sought to be enjoined a reasonable time in advance of the application for the interlocutory injunction. Of course it would be absolutely impossible, even if the party to be enjoined did not make a studied effort to avoid service of that notice, to serve notice on several hundred or several thousand parties to be enjoined within the course of a few days. But granting that the court puts the construction on it—and I am by no means certain that it will—that service on a representative number of persons sought to be enjoined will suffice, it will still probably be held that that notice shall be served on persons in several parts of the territory. That being true, it is necessary for the company to serve this notice with a copy of the bill of complaint on people in widely different scattered parts of the territory, perhaps several hundred miles in extent, and after that service shall have been made a reasonable time must elapse before the application of the interlocutory injunction shall be made.

Senator O'Gorman, I was just at the point of explaining the practical application of the provision in the proposed section 263 with respect to the limitation of the restraining orders to seven days in a case where a railroad company has occasion to file a bill to enjoin strikers. I was pointing out that upon the filing of the bill the railroad company would be, I assume, at the least expected to serve notice of the motion for an interlocutory injunction upon a fairly representative portion of the persons sought to be enjoined, those persons being probably scattered over several hundred miles of railroad; that is, all the railroad of the company within the judicial district. That after such notice should be served a reasonable time would have to elapse before the application could be made. The court in determining that reasonable time would be influenced by the fact that the persons sought to be enjoined and upon whom notice had been served, lived some distance from the place where the application was to be heard, possibly several hundred miles, because the application would have to be heard at some one place in the judicial district, and the judicial district might embrace several hundred miles of railroad which was affected by a strike. Upon the hearing of that motion for interlocutory injunction the court or judge would be called upon to consider very voluminous affidavits as to the facts, and doubtless a lengthy discussion as to the law and in a matter of such delicacy no doubt would want time to consider, before determining, whether an interlocutory injunction should issue.

Putting all those conditions together in the case of a railroad company, it seems very certain that the court would not be in a position to issue an interlocutory injunction within seven days from the time of the filing of a bill. The result would be that under this provision, limiting the duration of the restraining order to seven

days from the time of its entry, that order would expire before the court would be prepared to make its interlocutory order of injunction, leaving an interval there during which no restraining order or injunction would be in effect, during which the strikers would not be restrained at all by any order of the court, during which they might do all the acts sought to be restrained, and by the time the court was ready to issue its interlocutory injunction the damage sought to be avoided might be accomplished.

Now, there is a provision here in line 19, page 2, that this restraining order shall not "exceed seven days," "Unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record."

I submit that that provision is absolutely unworkable in the case of a railroad company seeking to enjoin a numerous body of strikers. When a railroad company files its bill it must, under this section, begin to serve upon the parties to be enjoined, notice of the application for interlocutory order of injunction as rapidly as possible. Presumably by the expiration of seven days the notice will have been served on a considerable number, but the court is not permitted to extend its restraining order unless before such extension shall be made there shall be notice of such extension to those who have been previously served with notice of motion for the interlocutory injunction. In other words, the more diligent the railroad company is in promptly serving the parties to be enjoined the more people it has to serve again, before it can get an extension of the restraining order beyond the first seven days. That makes the provision utterly unworkable and leaves the situation where the restraining order will expire by lapse of time before the court is in a position to grant the interlocutory injunction. So that, bearing in mind the proposition I referred to before recess, that the railroad company is engaged in a public service and is seeking to enjoin the strikers for the purpose of enabling the company to continue to perform that public service, we have here a limitation upon the issue of restraining orders which will make it impracticable to secure in the public interest an effective judicial restraint prior to the time when the court is able, after notice, after hearing, after considering, to issue its interlocutory injunction. I submit therefore that as applied to railroad companies this provision will be particularly unjust and oppressive, and this legislation would necessarily react principally upon the public itself, because it is the public which suffers when railroad trains are prevented from moving.

Apparently section 263 places same disability upon the Government itself as upon the railroads.

I wish to call attention to the further fact that apparently this section 263 would operate in all cases of applications for injunctions except those cases covered by section 266 of the judiciary code, and therefore would operate against the Government if the Government seeks to obtain an injunction under the antitrust act or under the interstate commerce act. Even the Government itself could not have a restraining order for more than seven days and before the court would be in position to determine upon issuing an interlocutory order of injunction in a matter of such gravity as would bring the Government into the case, the seven days would have expired, and if this

bill is operative, there would be no way in which the Government could protect itself from a violation of the antitrust act or the interstate commerce act between the lapse of that seven days and the time when the court was prepared to decide upon the issue of an interlocutory injunction.

Section 266a apparently requires the Government itself to give bond to pay damages to defendants wrongfully enjoined.

The next section, 266a, relates to the giving of security. I am not advised that that section itself would be particularly embarrassing to railroad companies. My impression is that generally they are required to and do give security when they apply for injunctions, but I call the committee's attention to what appears to be the situation, that that section would seem to be a limitation upon the Government itself. If the Government seeks an injunction, apparently the issuance of the injunction must depend upon the Government giving security "in such sum as the judge or court may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby."

Section 266b is ambiguous and is likely to be construed so as to embarrass the obtaining of effective injunctions against wrongful acts seriously injurious to the public interest.

I come now to section 266b and as to this section a great deal depends upon the question of construction. The section is ambiguous and it may be decided in such a way as not to cause many of the difficulties I will refer to. On the other hand, it may be construed in such a way as to cause those difficulties.

Section 266b apparently confines injunction to prohibition of specified acts and does not allow any general clause. This would facilitate evasion and impair proper effectiveness.

Section 266b says: "That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained."

That says, "the order of injunction shall be specific in terms and shall describe in reasonable detail the act or acts sought to be restrained."

It is a serious question whether that would admit of the courts, after describing certain acts, adding a general clause enjoining the doing of similar acts or acts with a similar purpose. Apparently the section does not contemplate any general clause of that character because it says without qualification that the injunction shall be specific in terms and shall describe in reasonable detail the act or acts sought to be restrained. I wish to point out that it is particularly true in the case of railroad companies that it is impossible to fix the particular acts which may be done to accomplish the purpose of interfering with the running of trains. I will suggest a few instances which have come to my attention which will faintly suggest the unlimited opportunities for the exercise of ingenuity in thinking up new acts of obstruction which may not be specified by the court.

In a strike several years ago upon one of the western railroads the locomotive boilers were secretly tampered with so that the damage was not immediately apparent, but when the locomotive got out

on the road it would fail. It would thereby delay the train and obstruct the tracks. Emery was put into the journals, so that when the train got under way there would be a hot box and, as a consequence, delay. In a more recent case of a strike on a railroad either the strikers or persons interested with them would go into the railroad yards and tear off the cards which were tacked on the cars for the purpose of identifying the cars and showing their destination so that the switchmen might know where to take them. Others would take cards from one car and tack them on other cars, with the result that cars would be sent to the wrong place, and so much inconvenience would be caused to the shipping public as well as to the railroad company. Others would intercept boys carrying waybills, switching cards, etc., from one part of the yard to the other and take those records and destroy them, therefore leaving the entire force in ignorance as to what should be done with certain traffic. Others would urge employees to mix up the freight and falsify the records for the similar purpose of obstructing the conduct of the company's business. In other cases the employees were stoned and the passengers terrorized by that conduct. No matter how industrious and ingenious the complainant's counsel may be and the court may be, it would be utterly impossible to specify in the order of injunction all the acts which it would be necessary to restrain in order to protect the operation of the trains.

So, if section 266b should be given that meaning and be regarded as precluding any general clause restraining all other acts similar to those specified and restraining all other acts of similar effect, the result would be that it would simply be an invitation to the strikers to think up some new act in addition to those which the court and counsel for complainant were unable to think of, as those acts could be done with impunity until there might be a further interlocutory injunction issued.

Section 266b is calculated to narrow the injunction so as to invite the deliberate commission of the prohibited acts by numerous persons who ought to be compelled to respect the court's order.

That section further provides that the injunction—

> shall be binding only upon the parties to the suit, their agents, servants, employees and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

It is entirely possible that this clause could be construed in a liberal way sufficient to give the courts practically the power which they now exercise in dealing with a situation so as to control it effectively. On the other hand it is possible and perhaps probable that it will be assumed that the intention of Congress was to change the law, or else the provision would not have been adopted, and it will therefore be construed as limiting the doctrines now applied by the courts. Therefore, this language may be the source of considerable difficulty and of itself may seriously embarrass railroad companies in their effort to keep their properties in operation in case of a strike.

We have already found in section 263, at the top of page two, the specific requirement that notice of an interlocutory injunction must be served upon the parties sought to be enjoined. Then section 266b says that the injunction shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those

in active concert with the parties to the suit. I presume the parties to the suit would be only those persons named as defendants who were actually before the court by service of process and it might well be that the courts would construe this clause in such a way as to mean that nobody could be held bound by the injunction unless the person held for contempt was one of the individuals named as defendant and who had been served with process, or an agent, servant, or employee, or attorney of some one of those individuals so named and served, or a person in active concert with the specific individuals who had been named as defendants and served with process.

Now, if the matter be narrowed in that way, undoubtedly the courts will have less latitude than they now have to give effect to the injunctions which they issue, and it is a very serious question as to how that portion of the section will be construed. There will be a tendency to assume that Congress intended to change the law or it would not have enacted the provision, and if it does change the law so as to narrow it in that way there will be a substantial embarrassment in the effective enforcement of these injunctions.

The CHAIRMAN. I wish you would point out in what particular that would narrow the power of the court?

Mr. HINES. Understand, Mr. Chairman, an injunction of this sort generally issues in a case where there is a vast conspiracy among several hundred or several thousands of laborers to coerce the railroad company into granting their demands. Of course, a thousand people can not be named in the bill and served with process. Perhaps only a few can actually be reached and served with process. It would be easier to satisfy the courts that some person not served with process and not named was connected with this general conspiracy than it would be to satisfy the court that a specific individual alleged to have violated the injunction had a direct individual connection with some of the specific individuals who had been named and served with process.

I point that out as a danger to be apprehended, not necessarily that the courts would construe it in that way, but I think when the committee is called upon to deal with a situation which involves the question of an effective remedy for the railroads of the country in their effort to render the public service which the statute requires them to render, the committee has to be cautious not to adopt any language which can, by any possibility be so construed as to narrow the operation of the injunction and embarrass the courts in their carrying it into effect.

Section 266b by using term "active concert" may permit the injunction to be defied by all whose acts are affirmatively approved by the strikers.

I want to call attention to another particular which I think is of even more importance than the one I have just mentioned. The latter portion of the section says the injunction "shall only be binding upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them," etc. Now, let us assume this situation: That the injunction is issued, running against the defendants and their associates, who are members of a labor union, and all others in active concert with them. Suppose the union complies with the injunction and does nothing to violate it, but that under cover of the excitement and confusion incident to the

strike, outsiders come along and, with full notice of the injunction, elect on their own motion, so far as any proof can be had, to do the things which the injunction has prohibited. It ought to be construed that these persons, by their action, had constituted themselves the representatives of the strikers, or had associated themselves with the strikers in such sense that their deliberate doing of these acts with knowledge of the injunction was a contempt of court. But I fear this bill is open to construction that the words "active concert" mean the active cooperation of the two sides; that is, not only must the outsider of his own motion elect to do the act, but in order to show contempt of the injunction it must be proved that he did it with the approval of the strikers, because it is hard to imagine a concert which has only one side to it. A concert implies cooperation and it may well be that a man's associating himself with the strikers and doing these things on their behalf would be said not to show active concert with the strikers, if the strikers themselves were not encouraging and approving his acts, and the burden of showing that they did encourage and approve his acts would be exceedingly difficult.

The CHAIRMAN. If you know, what is claimed to be the particular evil existing under the present methods of enforcing the law that calls for this provision?

Mr. HINES. Mr. Chairman, I do not know of any. I have heard a vague statement.

The CHAIRMAN. I have heard nothing and I would like to be informed if there is an objection about it.

Mr. HINES. I have heard a vague statement that blanket injunctions which were issued were a great injustice, but my attention has never been called to one which has not been so guarded as to protect the rights of the defendant and to protect any man from being unjustly pursued.

The CHAIRMAN. I am speaking of the latter part of the section to which you refer.

Mr. HINES. I am not able to point out any case where there has been an abuse which calls for this provision, and I assume that the gentlemen who favor it will, if they can, sustain it by pointing out cases of that character.

So that question of active concert is a pretty serious matter. A court of equity dealing with this whole situation can tell whether an outsider, who with notice of the injunction has wilfully done the thing the court had prohibited, has elected to bring himself in as a representative or as an associate of the strikers in such a way that he may be properly punished for contempt. But if in addition the burden must be maintained that he was in active concert with the strikers, which may be held to imply an encouragement on the part of the strikers of his doing that thing, it is a serious question whether the outsider could be held.

There is a still broader aspect of this matter upon which very serious doubt may be thrown by this provision. The courts recognize two sorts of contempt, one where the court's action might be called remedial, where a party to the suit or his representative or someone who has associated himself with the party to the suit, does something in violation of the injunction. There, by way of affording the complainant the remedy to which he is entitled, the court

will punish the person who has violated the injunction. But there is another phase of the matter that the cases refer to, and that is where a man is an outsider and can not be construed as in any way identified with the defendants or associated with them, but has simply in a perfectly deliberate and willful way done the thing the court prohibited. The courts say in a case of that sort, while the complainant can not insist upon punishment for contempt as a part of the remedy to which he is entitled against the defendants, nevertheless the court in upholding the administration of justice can punish any man who willfully obstructs the performance of justice by deliberately doing a thing which the court has prohibited. They say, entirely outside of who is technically bound by the injunction, every member of the public is bound to respect the enforcement of justice to that extent and can not willfully and without any justification do a thing which the court has prohibited. But it is a serious question under this section whether that remedy would remain with the court itself for the upholding of justice. Where it is said without qualification that the order of injunction shall not bind such a man, it may well be said that he is not bound to respect it; that the supreme legislative body has said he may do as he pleases in regard to that, even though he does thwart the administration of justice. That is an additional feature which would tend to impair the effective administration of the law in cases of this character.

If the prohibited act is unlawful even for the strikers it can not be appropriate for outsiders, who do not have even the justification the strikers would have. Hence Congress should not unnecessarily enable outsiders to defy injunctions issued in the public interest.

I want to suggest this idea: While this part of the bill is general and applies to injunctions by the Government for any violation of the antitrust act or the interstate commerce act and applies to any injunction by anybody, it is particularly true in the case of injunction sought by railroad companies to prevent the obstruction of the operation of their trains, that the situation is peculiarly one where the things prohibited are not an injustice, in fact, against anybody, unless it is the people who are the direct parties or associated with the parties; that is, the labor union itself. Certainly no outsider can complain that any right of his has been interfered with by this injunction. No good citizen even identified in interest with the labor union ought to do the things prohibited by the injunction, but certainly the outsiders who have not even interest with the labor union have no special standing to insist that their rights as citizens are interfered with if they are prevented from doing the things which the labor union is prevented from doing. Therefore, so far as any general consideration is concerned, this seems to be the last case in the world where Congress ought to construct a series of loop holes for letting outsiders escape who have been trying to break in and cause trouble. They are not doing it as good citizens, and if a situation must exist where Congress must err, on one side or the other, certainly it is better to err on the side of enforcing public justice and keeping open the channels of commerce rather than to err on the side of encouraging outsiders who have not even the interest of the labor union to justify them to come in and perform these obviously unlawful acts in a willful and deliberate way.

Union labor can not favor the escape of outsiders whose lawless acts defy the injunctions, because those lawless acts are always disclaimed and deplored by union labor.

We know in all of these troubles when these disorders occur the labor union disclaims and deplores them and says it was not done by them or the people associated with them. That being true, I take it the labor unions would have no objection to the punishment of these outside parties. The labor unions say they are not responsible for the lawless acts, they did not encourage them, and they do not want these outside parties to do these lawless acts. If that is so, then so far as the labor unions are concerned they can not grieve if these outsiders are caught by the injunction and prevented from doing things that the labor unions profess to condemn and that no good citizen ought to do.

First paragraph of section 266c seeks to narrow foundations of equitable intervention and to impair the just remedies of complainants and the public, although justice to the defendants does not require such impairment.

Coming to section 266c, the first paragraph of that section, beginning on line 15 of page 3, reads as follows:

> That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

Referring to the first part of section 266c, that no injunction shall be granted in these labor disputes unless necessary to prevent irreparable injury to property or to property rights of the party making the application for which injury there is no adequate remedy at law, and such property or property rights must be described with particularity in the application, which must be in writing and sworn to by the applicant, or by his agents, or by his attorney. That portion of that section shows a studied effort in these labor suits to narrow as much as possible the basis for any injunction at all.

Limitation to property rights seemed designed to exclude remedies to protect the person and to protect personal freedom, although those remedies are particularly necessary in labor disputes.

The limitation absolutely to property or to property rights seems to narrow, at least somewhat, the basis for equitable intervention. Pomeroy, in the sixth volume of his work on equity, page 579, seems to recognize that equity will intervene to protect the right of personal freedom of a man to come to and from his work and puts the intervention on the ground of protecting that element of personal freedom. We find in other cases the general statement that while equity jurisdiction will not be exercised for the enforcement of criminal law, yet it may be exercised for the protection of civil rights. It is true generally, and perhaps it is particularly true in the case of a railway company, that it will always be possible to demonstrate the existence of a property right; but nevertheless, if the general doctrine of equitable intervention is somewhat broader than that, it

seems particularly unwise to put this limitation here where undoubtedly one of the things which is most infringed is the right of personal liberty.

The CHAIRMAN. Would that term include the mere right to do business, for example, where a man has a stock of goods, the goods themselves not being interfered with? Could you say that the right of that man to continue his business and dispose of his goods was a property right?

Mr. HINES. I should say it would be an open question in the construction of this section. Undoubtedly he has a right equity ought to protect, and this section would seem to make it a question whether it is such a right that equity would protect in the labor disputes. The point I urge is, in view of the doubt that is cast upon the extent of the foundation of equitable interference in these cases, that the provision ought to be omitted, because if there is any class of cases where equity ever goes beyond these bare property rights certainly this is the class of cases where it ought to do that thing, because the things that are involved here are so largely matters of liberty and so largely matters of protection of the persons of individuals who ought to be regarded as entitled to equitable protection when no other remedy is available.

Limitation to right of party making the application seems designed to exclude from consideration the interests of the public, always vitally involved in railroad strikes.

The section goes further and says that it must be a property right of the party making the application. That introduces another serious element and has a more direct bearing upon the railroad situation. Here the railroad company is a public servant, and in a sense, and in a most important sense, it stands as the representative of the public for the purpose of procuring transportation, and it would seem that if the property rights of the shippers of the railroad company, or if the rights of freedom of its passengers were interfered with by a strike, that the railroad company, which has under the law a statutory duty to afford them these rights, ought to be permitted to go into a court of equity and ask for the protection of these rights entrusted to its care without having to demonstrate that these rights were its own rights. It seems to me that is a very noticeable evidence of the disposition of this bill to squeeze down to the narrowest limits the basis for equitable intervention and to do it in the very cases where that basis ought to be as broad as any equitable intervention that can be imagined.

I call attention to the fact that in the Debs case the bill was filed by the Government, and the Supreme Court, in discussing the matter, called attention to the fact that the Government had a property interest in the mails, but it is evident from the discussion of that case that the right of equity to intervene there was not confined to the property right of the Government in the mails; it was extended to the protection of all the rights of freedom in interstate commerce which were under the care of the Government, and the introduction of a clause of this character certainly is in the interest of putting outside of the fold of equitable protection cases that ought to be within that fold.

Another point to be considered in that connection is that in view of the requirements of specification in regard to things prohibited,

and in view of this requirement of specification of particular property rights, and that it belongs to the complainant, there would seem to be danger that an injunction might easily go beyond the basis which this bill leaves for equitable intervention and would raise more technical questions than ever in the past as to the sufficiency of the injunction, although manifestly the injunction is needed to protect important rights which can not be protected elsewhere.

Requirement for particular description of the property is largely impracticable and will merely hamper complainants and the public, and is unnecessary from the standpoint of justice to defendants.

This paragraph goes still further and says that such property or property rights must be described with particularity in the application. Now, take the case of a railroad company whose cars are in danger of being attacked by strikers and whose locomotives are in such danger. It perhaps has 100,000 cars, a large number of them off of its own lines, and it has several thousand cars of other railroad companies on its line. It will be absolutely impossible to comply literally with this requirement if the property must be specified with particularity in the application for an injunction. Even their locomotives which stay on their own lines are so numerous that any description with particularity in the literal sense would be out of the question. The bill seems to select matters which are unimportant from the standpoint of protecting substantial rights of the defendants, and by requiring strict observance of details often irrelevant renders more difficult the obtaining of needed equitable relief. It would prove embarrassing in the preparation of the bill and in the drawing of the injunction to make the required description of property and would offer an endless array of new technicalities which might be taken advantage of, and would interfere with relief which ought to be found in equity. In other words, these restrictions have no tendency to protect any substantial rights of the defendants, but their only tendency is to hamper the opportunity to protect the substantial rights of the complainants, and certainly in railroad cases, of the public, which is absolutely dependent upon the ability of the railroad company to keep its trains in operation.

Last paragraph of section 266c is an extraordinary and insidious destruction of the only available remedy against numerous wrongs which are calculated to break down transportation service in time of strike.

I come now to the last paragraph of section 266c and I direct your particular attention to that because it is one of the most extraordinary provisions that could be imagined and involves a most extraordinary change in the law. While it professes to deal only with the particular remedy, it in fact virtually takes away the right. As I pointed out in the beginning of my argument, the equitable remedy is not available except when there is no other remedy. Therefore when it says here that the equitable remedy shall not be given in cases where otherwise it would be given, the result is that in all the cases covered by the last paragraph of the bill, which you will find on page 4, there is no remedy. You may say it is simply changing the remedy, but when you take away the last remnant of remedy there is, then certainly in effect you take away the substantial right. I want to discuss in detail the various provisions of this last paragraph which was suggested here this morning had been art-

fully constructed. I want to call your attention to a number of very important things which now are unlawful, which are the subject of protection in equity, and which are of the greatest importance to the railroad companies, and the public dependent on the railroads, and as to which under this bill there can be no protection whatever.

The bill destroys the remedy for a nuisance committed by a crowd which by its presence and numbers obstructs the railroad employees in going to and from their work.

I want to call your attention to this proposition: That at present it is unlawful to assemble in large numbers, even for the purpose of peaceable persuasion, when such assemblage is of such character as to obstruct access to and from any given place of work. For example, if 500 men congregate on a public street near a place where the trainmen or the shopmen or the station men are at work and stay there persistently in such a way as to obstruct those men in going to and from their work, no matter how peaceful that assemblage may be, the mere fact of its presence there is an obstruction to access to the works and that obstruction is a nuisance, and under the present law that nuisance may be enjoined if there is no adequate remedy elsewhere. The effect of this bill, however, is simply to take away all equitable remedy in the case of a nuisance of that character, because the bill says:

> That no injunction shall prohibit any persons from attending at or near a house or place where any person resides or works or carries on business or happens to be for the purpose of peacefully persuading any person to work or to abstain from working.

Now, that may be the purpose so far as it may be proved—this peaceful purpose—and yet if that crowd congregates in such numbers as to obstruct the employees in going to and from their work the result is that it hampers the railroad company in the discharge of its public duties, and under the law at present an injunction may be had to protect the railroad company and the public as against that interference with the transportation service. But that remedy is absolutely wiped out by this paragraph of this bill, and since the remedy could only be invoked under the present law where all other remedies are inadequate it follows that the purpose of this bill in that respect is to create a situation where strikers can, through the creation of a nuisance, prevent the conduct of the public transportation service of the country.

The bill destroys the remedy for a continuing trespass committed by a crowd unlawfully assembling on the railroad company's own premises.

To take another proposition, it is, of course, unlawful at the present time for a large number of persons having no business with a railroad company to assemble on its premises, especially in such numbers as to interfere with the conduct of the railroad's business. It would be a case of pure trespass and if it were a continuing trespass and involved a substantial injury to the railroad company, the railroad company would be entitled to an injunction. It is a very serious situation if in times of public disturbance, such as characterize a strike, crowds of outsiders who have no business with a railroad company, and whose only purpose is to discourage employees from working and carrying on the transportation business of the country

are allowed to congregate on the railroad's premises. I say it is a very serious situation to allow men to come on the premises of the railroad company and use their presence there as trespassers to accomplish that object in opposition to the interests of the railroad company and in opposition to the interests of the public. That is unlawful, it is an unlawful trespass and under the present law a court of equity will enjoin regardless of the peaceful or apparent peaceful purposes of the trespassers. But under this bill that remedy is taken away because the bill provides that no injunction shall prohibit any persons from attending at or near a place where any person works for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or abstain from working. The crowd may be peaceful and still its presence may effectually retard or stop transportation service. So the whole right of the railroad companies to protection in a court of equity against such trespass where other remedies fail, is absolutely taken away by this bill as it stands. This feature constitutes one of the most serious menaces of this bill as directed against the performance of the transportation service of the country, upon which the people are absolutely dependent.

I have assumed the peacefulness of the crowd in both of these cases; in one, the creation of a nuisance by the assembling of a crowd which habitually obstructs entrances to premises, and in the other the creation of a trespass by the gathering of crowds on the railroad company's property.

But even if the crowds are peaceful, so far as any proof can be had against the strikers themselves, yet a crowd of that sort attracts lawless persons who take advantage of the crowd to do under cover of the crowd various acts of violence, and that fact is an additional reason why it is important for a court of equity to protect the situation and remove the cause which makes it possible for these unlawful things to be done, even if the strikers themselves do not do the unlawful things. But by undermining all right to any remedy in equity for this nuisance and for this trespass, the opportunity is given for these outsiders who perhaps can not be connected with the strikers at all, to take advantage of the situation not only to commit the nuisance, to commit the trespass, but in addition to commit acts of violence themselves.

But entirely aside from all questions of violence, these nuisances and these trespasses can be committed so as effectually to impede the transportation of passengers, mail, and freight, and this bill takes away the remedy.

It is quite a surprising proposition that in labor disputes the whole law of equitable remedies to protect against nuisances and trespass should be suspended, and that is what this bill does, unless it can be proved against the strikers that the assemblage that created the nuisance or the trespass was assembled for some purpose other than peaceful persuasion or peaceful communication. In other words, this bill takes an absolutely irrevelant test; it ignores the illegal effect of being an injurious trespass or a nuisance; it ignores the effect absolutely and if that illegal effect is connected only with a purpose of peaceful persuasion, which in itself may not be criticized, then it says there shall be no remedy for the trespass or the nuisance.

The bill destroys the remedy for all forms of unlawful coercion and intimidation (except violence) of railroad employees trying to carry on the public service.

I come now to the general question with respect to persuading the employees of the railroad company to stop working. Out of the vast mass of cases dealing with this matter, we deduce the rule that it is unlawful for strikers to coerce in any way the persons who are working or who wish to work for the railroad company; the controlling question is that of coercion. The strikers have the right to appeal to the individual judgment and give reasons why he should do as they suggest, but they have absolutely no right to coerce him to do what they want. No matter what form their activities take, so long as the effect of that form is coercion of any kind, the act of the strikers become unlawful and the injunction is the proper way to protect the interests which are injuriously affected by that unlawful act. We find that this whole paragraph absolutely ignores that and prohibits every form of coercion which can be viewed as peaceful; that is, every peaceful form of coercion is permissible. It is only when it ceases to be peaceful that the bill permits a court of equity to take hold of it. We have all heard more or less in the past of the argument that when a thing ceases to be peaceable the criminal court can take care of it anyhow and that in that case it would not be necessary for a court of equity to act. But now the situation is that under this bill that is the only sort of a case in which a court of equity can act and all the other forms of coercion which now exist, or which the ingenuity of labor unions can devise and which their increasing power can make effective, all those methods of coercion are to be permitted absolutely without any remedy if this last paragraph of this bill is to go into effect.

In that connection I want to read from Martin's Modern Law of Labor Unions, page 229, where he states:

> The owner of a business is entitled to have workmen come to his place of business without being subjected to violence or threats of violence. But this is not the extent of his rights. Any course of conduct upon the part of others which deprives or substantially affects the freedom of mind of such workmen in reaching a decision to remain in or enter into his employ, or the freedom of will in carrying this decision into execution, is an unlawful interference with such owner's business.

That is the doctrine as laid down in Martin's Modern Law of Labor Unions, but this bill proposes to establish a law that no form of unlawful coercion can be protected in equity at all so long as that form maintatins a peaceful guise.

The CHAIRMAN. What authority does he cite for that?

Mr. HINES. I have not the book, but I have one or two other authorities bearing on the same subject. In the case of Union Pacific Railroad Co. *v.* Ruef (120 Fed., 102), the court said:

> Picketing in and of itself when properly conducted is not unlawful, but when accompanied by violence of any manner or coercion or intimidation to prevent persons from engaging in the service of an employer, it is unlawful.

In the case of People *v.* Kostka the doctrine is laid down:

> Picketing may be done in such numbers as to constitute intimidation. Jeering and shouting at employees by strikers may constitute intimidation. Persuasion or entreaty may be so persistent as to constitute intimidation.

But no matter how persistent the entreaty is under this bill there is no remedy in equity so long as it can not be proved that it was

something other than peaceful. That is of the greatest importance to the railroad company.

In the case of a strike it is the purpose of the strikers to break down the transportation facilities. In addition to trying to accomplish that, through the disabling of the equipment and destroying of the records, it is their purpose to bring pressure to bear upon the employees to make them leave their work and in order to do that they adopt such means as may be available to do it. This bill serves notice on the labor union that they are free to adopt any means to coerce an employee to give up his work, or to coerce a man from becoming an employee so long as they are sufficiently ingenious to keep those means from being other than peaceful. Here, again, a test which is irrevelant is applied. The injurious thing is the coercion. Violent means of coercion is merely one means. Any other means which accomplishes the same result does just the same damage to the railroad company and to the public that is dependent upon the railroad company, but this statute is an invitation to devise and employ all other means that can be thought of.

The bill destroys the remedy for fraudulently inciting employees to stop work.

Another proposition that is established is that it is unlawful for strikers to adopt fraudulent measures of getting employees to stop work or keeping men from working, but no court of equity can intervene on that ground under this bill. So long as the fraudulent methods are peaceful in character it makes no difference how fraudulent they are, there is no basis for equitable intervention under this bill.

The CHAIRMAN. Can you give me an illustration of that?

Mr. HINES. The cases say that any form of coercion employed in dealing with employees and attempting to persuade them to give up employment or not to take employment is unlawful and is the subject of injunction.

The CHAIRMAN. Do you mean misrepresentation?

Mr. HINES. Yes; I so understand that any misrepresentation is an unlawful act and is the subject of an injunction. I will be glad to supplement this by a citation of authorities on that point, and I think it might be of convenience if I put in at the end of my argument a very brief statement of the points and the authorities under each so that they may be taken in at a glance.

The bill destroys the remedy for unlawful coercion of the railroad through the boycott and the sympathetic strike.

This bill also provides that no injunction shall prohibit any person from seeking to patronize or employ any party to such dispute or from recommending, advising, or persuading others by peaceful means so to do. The result of that is, as applied to railroad companies, that the railroad company will have no relief against this form of coercion, that the strikers may endeavor to persuade other people not to patronize the railroad company for the purpose of coercing the railroad company to grant the demands of the strikers. That is an unlawful act, and under the law as it stands such persons may be enjoined, but under this law they can not. Further than that, strikers may persuade the employees of other institutions to strike unless those institutions will cease patronizing the railroad company. In other words, the bill is so constructed that there may

be an unlimited chain of boycotts and sympathetic strikes, all for the purpose of bringing unlawful coercion to bear upon the railroad company, all of which is unlawful at the present and is the subject of injunction, but none of which would be unlawful under this bill so long as the effective means employed are peaceful.

The bill destroys the remedy for any unlawful act when the illegality is due to the fact that the act is done by many persons during a strike.

Then we come to the end of this paragraph to the provision:

That no injunction shall prohibit any persons from doing any act or things that might lawfully be done in the absence of such dispute by any party thereto.

It is very difficult to know what that means. Two meanings occur to me, either one of which would apparently overturn almost the entire law on this subject and would leave labor unions largely to do as they please, so far as they do not commit such acts of violence as to be unlawful on that score. One construction to be placed on that provision is that no injunction can prohibit any number of persons from doing in case of a labor dispute any act or thing that might lawfully be done in the absence of dispute by any single person. That is one construction to be put upon it, and apparently that is what it literally says. In other words, that seems to wipe out the whole theory of conspiracy that a thing may be lawful when done by one person and yet may be unlawful when done in concert by a great number of persons. If that is the meaning, then the effect is no injunction shall prohibit any conspiracy of persons from doing any act which would be lawful if done by one person singly. That would be a most startling change in the law and it would be difficult to predict the consequence and its effect upon railroad companies in their efforts to perform transportation service.

Another meaning which could be put upon that is that no injunction shall prohibit any number of persons in combination from doing in case of a labor dispute any act or thing which might lawfully be done by those same persons in combination in the absence of dispute. In other words, in that case the distinguishing feature which they would seek to eliminate would be the dispute. The idea would be that whatever a labor union may do when there is no labor dispute it may also do when there is a labor dispute. Here again we have the characteristic which runs through so much of this bill of ignoring the proper test of what is lawful. To a very great extent the legality or illegality of an act depends upon its effect.

A thing may be lawful when done by 100 men when there is no labor dispute, because it has no injurious effects; and the same thing may be absolutely unlawful if done at the height of a strike, because it would have an exceedingly injurious effect. For example, a labor parade might march up and down the street all day long when there is no strike, and that would be lawful, so far as the railroad company was concerned, for there would be no injurious effects upon the transportation service or the employees engaged in it; but let that same labor parade march up and down all day right by the railroad yards at the time of a strike, when the railroad is endeavoring to get its employees to conduct the public service—it would be unlawful, because its effect would be coercive merely by the numbers. The effect depends upon environment, and a thing that has an in-

jurious effect at the time of a strike may have a perfectly innocent effect at another time. This bill seems to wipe out that distinction entirely and to leave strikers to do in time of strike whatever they could do lawfully when there is no strike, thereby ignoring absolutely the fact that a thing absolutely innocent when there was no strike would be injurious and unlawful when there was a strike.

I can not think of any meaning to be given to that clause except one of the two meanings that I have suggested. Either one of them would subvert a large part of the law on this subject and to a very large extent deprive the railroad companies of their power to carry out their duties which they owe to the public.

The bill destroys the remedy for inciting a person to commit a breach of contract.

I want to discuss another phase of this last paragraph of this bill showing how radical it is and how completely it changes the law which now protects the railroad companies of this country in their effort to carry out their public duties. It is recognized by the cases that noncoercive persuasion may be adopted by strikers, but it is also recognized that that may be done only to persuade people to do lawful things. It is unlawful to adopt even noncoercive persuasion to persuade people to do unlawful things. This paragraph makes absolutely no distinction between a lawful thing and an unlawful thing. For example, it is lawful for a striker to persuade another person to stop work when that other person is under no contract to work for a specific time, because then the person has the right to stop work whenever he sees fit, and consequently having a lawful right to do that the striker may by noncoercive methods persuade him to do it. But if a person who is at work is under a contract to work for a specified length of time, it is unlawful for him to break that contract and it is unlawful for any person to persuade him to break that contract. We find cases where courts have enjoined strikers from persuading laborers to break contracts for working for a specified time, but under this bill every case of that sort is taken out of the protection of a court of equity, because it says "no injunction shall prohibit any person from recommending, advising, or persuading others, by peaceful means, to terminate any relation of employment." The employment may be under a contract for a fixed time and its termination would be unlawful, and persuasion to terminate it could be enjoined under the law as it stands, but could not be under this bill, because there is no qualification and strikers are permitted to persuade persons to violate their contract to work as well as to terminate their work when they have no contract to work for a specified length of time.

The bill destroys the remedy for inciting a railroad employee to refuse to handle cars as required by the act to regulate commerce.

Take another illustration. While a man is working for a railroad company, and while he continues to sustain the relation of employee to the railroad company, it is unlawful for him to refuse to do a part of his work, and especially is that true when the part of the work which he refuses to do is required to be done by statute. For example, suppose there is a strike in a manufacturing institution, and in order to make that strike effective the strikers seek to get the railroad company's employees to refuse to handle the cars of that insti-

tution. That was practically the situation in the Pullman cases when they tried to get the employees of the railroad companies to refuse to handle the Pullman cars. That is an unlawful thing. The employee, so long as he remains an employee, has no right to refuse to do a part of his work, and certainly not when this is the work which is required to be done by statute; and yet under this bill the protecting power of the court of equity is to be withdrawn in a case like that, and strikers are to be permitted, without limitation, to persuade railroad company employees to refuse to do a part of their work, although that refusal is unlawful because this not only relates to the termination of employment but it relates also to ceasing to perform any work or labor. The two things are mentioned, so evidently they do not mean the same thing. It is one thing to terminate a relation of employment and thereby cease to be an employee, and another thing for an employee to cease doing a part of his duty while he continues an employee. Under this bill, while continuing as an employee, the employee may be persuaded to cease to perform a part of his work, because this bill provides "that no injunction shall prohibit advising or persuading others by peaceful means to cease to perform any work or labor."

I was just pointing out that it would be unlawful for a railroad employee, while continuing in the relation of an employee, to refuse to switch a car which the interstate commerce act required a railroad company to switch, and therefore it would be unlawful for strikers to persuade him, even by peaceful means, even by noncoercive means, to do that unlawful act, in that such suggestion or persuasion and inciting on the part of the strikers could be enjoined under the present law. That is a matter of very great importance to the railroad companies in connection with the discharge of their statutory duties, but this bill wipes out that remedy entirely, because it permits the strikers by peaceful means to persuade any man to stop work under any circumstances, whether those circumstances are lawful or unlawful.

The bill destroys the remedy for a railroad employee refusing to handle cars as required by the act to regulate commerce.

Going further the cases recognize that so long as an employee continues in that relation it is his duty to do all branches of his work and certainly those branches which are required by statute. Therefore, if an employee who does not choose to terminate the relation of employment continues at work and refuses to handle certain cars, which the strikers may designate as scab cars, the court of equity will enjoin him from refusing so long as he stays at work. That right to injunction is abolished by this bill; it forbids any injunction prohibiting any person to cease to perform any part of his duties, although he continues in the relation of an employee.

The bill destroys the remedy for inciting or aiding railroad employees to go on an unlawful strike for the purpose of forcing the railroad to violate the act to regulate commerce.

Most of my discussion of the last paragraph of this bill has related to lawful strikes. That is, a strike for a lawful purpose. Generally speaking, the lawful purpose of a strike is to better the condition of the strikers; they have a right to stop work in order to get better wages or better hours. Some strikes, however, are unlawful,

and while a court of equity will not enjoin men from terminating their employment, even when the purpose of a strike is unlawful, nevertheless a court of equity under proper circumstances will enjoin persons from persuading people to stop work for an unlawful purpose. For example, it would be unlawful for the employees of a railroad company to strike for the purpose of compelling the railroad company to refuse to handle the cars of an institution which was under the ban of the labor union. While no court of equity would make the men continue to work if they chose to terminate their employment, yet a court of equity would step in and say to the strikers against this other institution "you shall not come around the railroad and use even peaceful persuasive methods to induce these railroad employees to go out on an unlawful strike." That is a very important protection which the railroad companies have under the law as it stands, but it is a protection which is swept away by this provision, because there is no restriction upon the proposition under this bill that no injunction shall prohibit any person from persuading any other person to terminate any employment, whether the object of the persuasion is to bring an unlawful strike in violation of the statute, or to bring about a lawful strike in furtherance of some lawful purpose. The Debs strikes, the A. R. U. strikes, which it was said this morning were in 1894, were of that character where employees of railroad companies were persuaded to go on strike for the purpose of compelling the railroad company to refuse to handle cars of a corporation which was in a dispute with its employees; it was an absolutely unlawful strike, and such methods of persuasion, even if peaceful in character, were unlawful, and the courts of equity were open to afford relief to the railroad and the transportation service of the country by enjoining such persuasion and inciting to do an unlawful act. All of that is swept away by this bill.

As another illustration of that absolute ignoring of the unlawful purpose of the strike, there is a general provision that no injunction shall prohibit any person from paying or giving to or withholding from any person engaged in such dispute any strike benefits or moneys or things of value. I realize that under some conditions persons to whom the money is given may have an interest therein by reason of its being a fund to which they are entitled. There may possibly be circumstances under which the moneys might be paid, even though it was an unlawful strike, but there is absolutely no restriction about this. Under this bill strikers could finance an absolutely unlawful strike, they could give money to which the strikers were not entitled, they could give money to the employees of a railroad company who had no interest in the fund, no right to claim it, just a purely voluntary donation for the purpose of enabling these employees of the railroad company to force it to refuse to comply with its duties under the interstate commerce act, by receiving cars from some particular institution. In other words, in so far as financial aid is concerned, under this bill there is no restriction on the extent to which persons may go in aiding an unlawful strike on a railroad, although the purpose of that strike is to compel the railroad company to violate the regulations of the interstate commerce act. I do not believe a court of equity at this time would permit the financial support of an absolutely unlawful strike of that character unless

possibly in a case where the persons to whom the money was given had some sort of claim to the fund, as, for example, by reason of being members of the organization to which the fund belonged. But that is simply an illustration that this paragraph of this bill ignores absolutely the question of the legality or illegality of the strike and permits in furtherance of an illegal strike everything which the law now permits in the furtherance of a legal strike.

The bill is a long step backward; it wipes out essential remedies so as to give a special class greatly increased power to injure the entire public.

Generally speaking, Mr. Chairman, with respect to this bill, I submit that it is a long step backward. We seem to be reaching a condition in this country where there is a growing appreciation of the responsibility of each class of society to every other class, and a disposition to prevent any class of society from adopting acts in furtherance of its own purposes which are contrary to the general welfare. But the whole theory of this bill from beginning to end is that labor interests hereafter shall have special privileges and special opportunities to injure the welfare of the general public, promoting their interests not only by lawful means, but by unlawful means. The bill draws no distinction virtually, between what is lawful and what is unlawful; it takes away remedies with respect to trespass, with respect to nuisance, with respect to coercion, with respect to inciting to unlawful conduct, and all for the evident purpose of giving to one class of society an additional opportunity for injuring the public for the benefit of that particular class of society. The railroad companies are particularly subject to the disabilities which will be created by this bill. They operate under conditions which facilitate interference by strikers; their lines are scattered over vast territory; the persons who endeavor to bring about conditions of strife are scattered over a vast territory, and it is extremely difficult even with the equitable relief which is now afforded for a railroad company in time of strife to continue to perform the public service which is absolutely necessary to the comfort and health of the public. So that if these extraordinary restrictions are put upon the equitable power and the court of equity is deprived of all right to deal with these great wrongs which are practically legalized by the last paragraph of this bill, it will be the railroads which will suffer, perhaps, more than any other class of employers, but through the railroads there will be the public which will suffer in its inability to get food and fuel, in its inability to enjoy the freedom of travel, and in its inability to enjoy the commercial intercourse that is indispensible to business prosperity.

So, I submit, Mr. Chairman, that this measure means vastly more than appears on the face of it. It carries a special menace to the railroads of the country and through them to the public and represents a purpose of favoring a particular class of society by facilitating unlawful acts on its part which will operate directly to injure the entire public, because the entire public is dependent for its health and comfort and freedom and prosperity upon the keeping open of the channels of railroad transportation.

Thereupon at 4.35 o'clock p. m., the committee adjourned until 10.30 o'clock a. m., Thursday, June 13, 1912.

5.

APPENDIX A.

SUMMARY OF PROPOSITIONS OF LAW RELIED UPON AND AUTHORITIES SUSTAINING THESE PROPOSITIONS.

1. PERSONS WHO MAY BE IN CONTEMPT FOR VIOLATION OF INJUNCTION.

In the case In re Reese (107 Fed., 942, 945, Cir. Court of Appeals, seventh circuit, 1908) the court, through Seaman, circuit judge, said:

It is entirely consonant with reason, and necessary to maintain the dignity, usefulness, and respect of a court, that any person, whether a party to a suit or not, having knowledge that a court of competent jurisdiction has ordered certain persons to do or to abstain from doing certain acts, can not intentionally interfere to thwart the purposes of the court in making such order. Such an act, independent of its effect upon the rights of the suitors in the case, is a flagrant disrespect to the court which issues it, and an unwarrantable interference with and obstruction to the orderly and effective administration of justice, and as such is and ought to be treated as a contempt of the court which issued the order. Such contempts, however, are totally different offenses from those which the parties to the case commit when they disobey a direct order made in a case for the benefit of the complainant. The one is an offense against the majesty and dignity of the law; the other is a violation of the rights of a particular suitor, at whose instance and for whose protection the particular injunctive order disobeyed was issued by the court.

In Garrigan *v.* United States (163 Fed., 16, Cir. Court of Appeals, seventh circuit, 1908) the court, through Seaman, circuit judge, said:

In any view of the charges of contempt and evidence so received, it is unquestionable that the only issues of fact were: (*a*) Whether the accused had knowledge of the injunction; and, if such knowledge appeared, whether he committed acts, either (*b*) in aid of its violation by the parties enjoined, or (*c*) in plain defiance of its terms—and thus in contempt of the authority and commands of the court. As it is neither charged nor proven that the plaintiff in error was one of the parties enjoined, he is not chargeable for breach or violation of the injunction, in the well-recognized sense of those terms applicable to parties. He was bound alike with other members of the public to observe its restrictions when known, to the extent that he must not aid or abet its violation by others, nor set the known command of the court at defiance, by interference with or obstruction of the administration of justice; and the power of the court to proceed against one so offending and punish for the contemptuous conduct is inherent and indisputable. (Seward *v.* Paterson, 1 L. R. Ch. Div. (1897) 545, 554, 76 Law Times (N. S.), 215; In re Reese, 107 Fed., 942; 47 C. C. A., 87, 90.) We believe the above-mentioned distinction in contempt proceedings, between disobedience of the injunction by parties and privies and the conduct of the others in contempt of the authority and commands of the court, to be elementary, and the sufficiency of the evidence in the case at bar to support the conviction must be tested thereunder.

In Bessette *v.* W. B. Conkey Co. (194 U. S., 324, 329) the court pointed out that while Bessette had been punished for violating a restraining order, he was not a party to the suit. The court proceeded:

Yet being no party to the suit, he was found guilty of an act in resistance of the order of the court. His case therefore comes more fully within the punitive than the remedial class. It should be regarded like misconduct in a court room or disobedience of a subpœna, as among those acts primarily directed against the power of the court * * *.

The court held that since such contempt proceeding was in the nature of a criminal case there might be a review in the circuit court of appeals by writ of error.

2. INTERVENTION OF EQUITY TO PROTECT PERSONAL FREEDOM AND CIVIL RIGHTS.

In 6 Pomeroy's Eq. Jurisprudence, section 599, it is said:

> The primary right that one's personal liberty should not be interfered with by combinations of persons is protected by equity. Thus the interference with the right of the laborer to travel on the highway by means of numbers of men or by physical force will be enjoined where its continuance is threatened.

In American Steel & Wire Co. *v.* Wire Drawers', etc., Unions (90 Fed., 608, 613; Cir. Ct. N. D. Ohio, 1898), where an injunction was granted against defendants restraining them from illegal interference with the employees at plaintiff's mills, the court, in speaking of plaintiff's right not to have its employees intercepted in going to work by unlawful means, said:

> It is the right not so much of property as of that liberty which every man enjoys in this country as his birthright, which is not confined to political rights alone, but extends as well to personal activities in and about one's daily business, be he laborer or capitalist; it is this right which lies at the foundation of the striker's own freedom when they would work or refuse to work on any terms but their own; it is a right the striker lawfully can not deny to the "scab"—the right to pass freely through the streets and highways to his work.

In 2 High on Injunctions, section 20, it is said:

> The subject matter of the jurisdiction of equity being the protection of private property and of civil rights, courts of equity will not interfere for the punishment or prevention of merely criminal or immoral acts unconnected with violations of private right.

In Attorney General *v.* Tudor Ice Co. (104 Mass., 239, 240), the court indicated that while a court of equity is without jurisdiction to enforce the criminal law or to restrain acts merely against public policy, nevertheless a court of equity has jurisdiction to protect civil rights, and in that capacity may restrain public nuisances which affect or endanger the public safety or convenience.

3. INTERVENTION OF EQUITY TO PROTECT INTERESTS OF THE PUBLIC.

In the case of In re Debs (158 U. S., 564), it was held that a court of equity had the power at the suit of the United States Government to issue an injunction to restrain defendants, members of an association known as the American Railway Union, from unlawfully interfering with the employees of certain interstate carriers for the purpose of rendering effective a boycott against the Pullman Car Co. growing out of a dispute between the Pullman Co. and its employees, intervention of a court of equity being sustained on the ground that the acts of defendants amounted to a forcible obstruction of interstate transportation of persons and property as well as the carriage of the mails.

The court, through Mr. Justice Brewer, said:

> Neither can it be doubted that the Government has such an interest in the subject matter as enables it to appear as party plaintiff in this suit. It is said that equity only interferes for the protection of property, and that the Government has no property interest. * * * We do not care to place our decision upon this ground alone. Every Government intrusted by the very terms of its being with powers and duties to be exercised and discharged for the general welfare, has a right to apply to its own courts for any proper assistance in the exercise of the one and the discharge of the other, and it is no sufficient answer to its appeal to one of the courts that it has no pecuniary interest in the matter. The obligations which it is under to promote the interest of all, and to prevent the wrongdoing of one resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court (p. 583).

4. OBSTRUCTION TO ACCESS TO OR EGRESS FROM COMPLAINANT'S PLACE OF BUSINESS BY LARGE ASSEMBLAGE AS GROUND FOR INJUNCTIVE RELIEF.

Where the presence of numbers, though not intimidating, yet actually obstructs access to or egress from the complainant's place of business or interferes with the freedom of the highway, an injunction will be granted on the ground of a continuing nuisance. (6 Pom. Eq. Jur., sec. 604; American Steel & Wire Co. *v.* Wire Drawers and Die Makers' Unions, 90 Fed., 608, C. C. N. D. Ohio, 1898; Foster *v.* Retail Clerks' Protective Association, 39 Misc., N. Y., 48.)

In American Steel & Wire Co. *v.* Wire Drawers and Die Makers Unions (90 Fed., 608, 614) the court said:

> It is just as much a nuisance to block up the street and impair the right by the continual presence of bodies of men, great or small, who obstruct the ingress and egress, as it would be to build barricades and embankments in the street.

In Foster *v.* Retail Clerks' Protective Association (39 Misc., N. Y., 48, 52) the court said:

> Whatever may be said of simple picketing where only persuasion is used, certain things can not have been done without infringing the rights of the plaintiffs. The defendants have no right to enter upon their premises except for the bona fide purposes of trade. If they do, they are trespassers. If the plaintiffs own to the center of the street, the defendants have no right to station themselves in front of their store and there distribute circulars such as the one in question. If they do this, they are also trespassers. (Adams *v.* Rivers, 11 Barb., 390.) The defendants have no right to obstruct access to the store in question. If they do, they commit a nuisance. The defendants have no right to so act as to collect crowds and thus obstruct movement along the sidewalk at or in the neighborhood of the store. This is likewise a nuisance.

5. RIGHT TO ENJOIN THE ASSEMBLAGE OF STRIKERS UPON PREMISES OF EMPLOYERS AS CONSTITUTING A CONTINUING TRESPASS.

A continuing trespass on plaintiff's property, though only for the purpose of persuading his workmen to quit, will be enjoined. (6 Pom. Eq. Jur., sec. 604; Knudsen *v.* Benn, 123 Fed., 636, Cir. Court Dist. of Minn., 1903.)

In New York, etc. Railroad Company *v.* Wenger (9 Ohio Dec. Reprint, 815, 825) the court said:

> Now, it is a mistaken notion to suppose that men may go upon the premises of another, even although they go there in a peaceable way, and express to men the notions they entertain, that they ought to abandon the employment of the railroad company. I question whether they have even the right to go upon the premises and make a simple request of that sort, and especially so if back of all is the purpose and intention to obstruct the business of the company and prevent it from discharging its lawful business as a common carrier.

Again, at page 825, the court said:

> From these facts it is clear to my mind that these men, when they went there, under the circumstances under which they went there, were clearly trespassers, and that it was altogether and essentially unlawful to go there, even seeking to compel or urge or invite other men to abandon their employment and to thereby obstruct the business.

Again, at page 818, the court said:

> If the trespass is continuous in its nature, if repeated acts of wrong are done or threatened, although each of these acts taken by itself may not be destructive, and the legal remedy may therefore be adequate for each single act if it stood alone, then also the entire wrong will be prevented or stopped by injunction on the ground of avoiding a repetition of similar actions.

6. WHAT AMOUNTS TO UNLAWFUL COERCION.

The owner of a business is entitled to have workmen come to and leave his place of business without being subjected to violence or threats of violence. But this is not the extent of his rights. Any course of conduct upon the part of others which deprives or substantially affects the freedom of mind of such workmen in reaching a decision to remain in or enter into his employ, or the freedom of will in carrying this decision into execution, is an unlawful interference with such owner's business. (Martin's Modern Law of Labor Unions, p. 229, citing Eureka Foundry Company *v.* Lehker, 13 Ohio Dec. Nisi Prius, 398.)

In Union Pacific Railroad Co. *v.* Ruef (120 Fed., 102, 124) the court said:

Picketing in and of itself when properly conducted is not unlawful, but when accompanied by violence or any manner of coercion or intimidation to prevent persons from engaging in the service of an employer it is unlawful.

In Rogers *v.* Evarts (17 N. Y. Supp., 264, 269) the doctrine is laid down:

Picketing may be done in such numbers as to constitute intimidation. Jeering and shouting at employees by strikers may constitute intimidation. Persuasion or entreaty may be so persistent as to constitute intimidation.

In Otis Steel Co. *v.* Local Union (110 Fed., 698, 701) Wing, J., said:

It has been said in an eloquent and learned decision that it can not too soon be learned, and learned thoroughly, that, under this Government at least, freedom of action, so long as a man does not interfere with the rights of others, will be protected and maintained; and that it is unlawful for any man to dictate to another what his conduct shall be and to attempt to enforce such dictation by any form of undue pressure. Nor must intimidation be disguised in the assumed character of persuasion. Persuasion too emphatic or too long and persistently continued may itself become a nuisance and its use a form of unlawful coercion.

In Karges Furniture Co. *v.* Amalgamated Woodworkers' Union (165 Ind., 421; 75, N. E. 887, 881) it was said that—

in a contest between capital and labor, on the one hand to secure higher wages and on the other to resist it, argument and persuasion to win support and cooperation from others are proper to either side, provided they are of a character to leave the persons solicited feeling at liberty to comply or not, as they please.

7. INDUCING BREACH OF CONTRACT OF EMPLOYMENT BY FRAUD.

In Martin's Law of Labor Unions, page 96, it is said:

No man can justify an interference with another's trade or business by the use of fraud, and the procuring of workmen to quit their employment and join in a strike by means of fraud is unlawful and in a proper case may be enjoined.

In Angle *v.* Chicago, etc., Ry. (151 U. S., pp. 1, 13) it is said:

It has been repeatedly held that, if one maliciously interferes in a contract between two parties and induces one of them to break that contract to the injury of the other, the party injured can maintain an action against the wrongdoer. Green *v.* Button (2 Cr. Mees. & R. 707), in which the defendant, by falsely pretending to one party to a contract that he had a lien upon certain property, prevented such party from delivering it to the plaintiff, the other party to the contract, and was held responsible for the loss occasioned thereby.

In Butterick Publishing Company Limited *v.* Typographical Union No. 6 et al. (100 N. Y. Supp., 292), there was granted an injunction restraining striking employees and local labor unions from resorting to threats, intimidation, or fraud in their relations with plaintiff's employees.

In this case the court said:

As regards their relation to the plaintiff's employees, it is clear from what has already been stated that the defendant local unions and their members must be restrained from resorting to any threats, intimidation, force, or fraud, whether through the means of picketing or otherwise (p. 296).

8. EQUITABLE RELIEF AGAINST COERCION THROUGH BOYCOTTS AND SYMPATHETIC STRIKES.

While it may be lawful, in aid of a lawful strike, for the strikers to use peaceful noncoercive persuasion and argument to induce customers of the person against whom the strike is in operation to withhold their patronage from him, yet it is unlawful, as already pointed out, for this "persuasion" to take the form of even peaceful coercion.

It is also clearly unlawful for strikers to incite, even by entirely peaceful and noncoercive methods, the employees of a third party to strike against that party for the purpose of compelling him to withdraw his patronage from the party with whom the inciting strikers have a labor dispute.

In Thomas *v.* Cincinnati, N. O. & T. P. Ry. Co. (62 Fed., 803), it was held that a combination to incite the employees of various railroads suddenly to quit their service without any dissatisfaction with the terms of their employment, thus paralyzing railroad traffic in order to coerce the railroad companies and the public into compelling the Pullman Co., whose cars were in use in operating the roads, to pay its employees more wages, was an unlawful conspiracy by reason of its purpose, whether such purpose was effected by means usually lawful or otherwise. Judge Taft, who delivered the opinion in this case, said:

Phelan came to Cincinnati to carry out the purpose of a combination of men, and his act in inciting the employees of all Cincinnati railroads to quit service was part of that combination. If the combination was unlawful, then every act in pursuance of it was unlawful, and his instigation of the strike would be an unlawful wrong done by him to every railway company in the city, for which they can recover damages, and for which, so far as his acts affected the Southern Railway, he is in contempt of this court (p. 817).

After referring to the fact that one purpose of the combination was to compel railroad companies to injure the Pullman Co. by breaking their contracts with that company, Judge Taft said:

But the combination was unlawful without respect to the contract feature. It was a boycott. The employees of the railway companies had no grievance against their employers. Handling and hauling Pullman cars did not render their services any more burdensome. They had no complaint against the use of Pullman cars as cars. They came into no natural relation with Pullman in handling the cars. He paid them no wages. He did not regulate their hours or in any way determine their services. Simply to injure him in his business, they were incited and encouraged to compel the railway companies to withdraw custom from him by threats of quitting their service, and actually quitting their service. This inflicted an injury on the companies that was very great, and it was unlawful, because it was without lawful excuse. All the employees had the right to quit their employment, but they had no right to combine to quit in order thereby to compel their employer to withdraw from a mutually profitable relation with a third person for the purpose of injuring that third person, when the relation thus sought to be broken had no effect whatever on the character or reward of their service. It is the motive for quitting, and the end sought thereby, that make the injury inflicted unlawful and the combination by which it is inflicted an unlawful conspiracy. The distinction between an ordinary lawful and peaceable strike entered upon to obtain concessions in the terms of the strikers' employment and a boycott is not a fanciful one or one which needs the power of fine distinction to determine which is which. Every

laboring man recognizes the one or the other as quickly as the lawyer or the judge. The combination under discussion was a boycott. It was so termed by Debs, Phelan, and all engaged in it. Boycotts, though unaccompanied by violence or intimidation, have been pronounced unlawful in every State of the United States where the question has arisen, unless it be in Minnesota, and they are held to be unlawful in England.

9. EVEN NONCOERCIVE PERSUASION TO DO AN UNLAWFUL ACT IS UNLAWFUL; E. G., PERSUASION TO BREAK A CONTRACT.

In A. R. Barnes & Co. *v.* Chicago Typographical Union (232 Ill., 42; 83 N. E., 940, 945) it was said that—

* * * it must be conceded that argument and persuasion are lawful if not directed to the accomplishment of an illegal and unlawful purpose. The object of the defendants as set forth in the bill was illegal, and if there is a malevolent intent to produce an illegal result, and it is produced, it makes no difference whether it is accomplished by mere persuasion or by physical violence.

In Jersey City Printing Co. *v.* Cassidy (63 N. J. Eq., 759, 763), the court said:

Where defendants, in combination or individually, undertake to interfere with and disrupt existing contract relations between the employer and the employee, it is plain that a property right is directly invaded. The effect is the same whether the means employed to cause the workman to break his contract, and thus injure the employer, are violence or threats of violence against the employee or mere molestation, annoyance, or persuasions. In all these cases, whatever the means may be, they constitute the cause of the breaking of a contract, and consequently they constitute the natural and proximate cause of damage. The intentional doing of anything by a third party which is the natural and proximate cause of the disruption of a contract relation, to the injury of one of the contracting parties, is now very generally recognized as actionable in the absence of a sufficient justification, and the question in every case seems to turn upon justification alone.

To the same effect see Flaccus *v.* Smith (199 Pa. St., 128; 48 Atl., 894); Southern Ry. Co. *v.* Machinists' Local Union (Cir. Ct. W. D. Tenn., 1901; 111 Fed., 49).

10. INJUNCTIONS TO PREVENT REFUSAL TO PERFORM SERVICES BY EMPLOYEES WHO ELECT TO REMAIN IN THE SERVICE, AND TO RESTRAIN NONCOERCIVE METHODS ON THE PART OF THIRD PERSONS TO INCITE SUCH REFUSAL.

Ordinarily every man has the legal right to stop work and to quit his employment whenever he chooses to do so, unless there be a contract that obliges him to continue for a definite time, but no man has the legal or moral right, while continuing in the employment of another, to refuse to do the work which he is employed and engaged to do. (In re Grand Jury, 62 Fed., 834, 835.)

While a court of equity has no power to compel employees to continue in the service of the employer, yet if the employees elect to remain in the service, performance of the duties incident thereto may be compelled by injunction. (Martin Modern Law of Labor Unions, sec. 53, p. 77.)

In Southern Cal. Ry. Co. *v.* Rutherford (62 Fed., 796) it appeared that the employees of complainant railroad company engaged in the transportation of interstate commerce and the mails, although remaining in the employ of the complainant, refused to handle or operate any train of cars of complainant to which a Pullman car was attached. It further appeared that such refusal subjected complainant to a multiplicity of suits and to great and irreparable damage, in that there was a contract requiring complainant to attach

a Pullman car or cars on all of its through trains for the carrying of passengers and the mail, and also retarded and interrupted complainant in the transmission of mail and interstate commerce. An injunction requiring the employees to perform their duties during their continuance in complainant's employment was issued as prayed.

In Toledo, etc., R. Co. *v.* Penn. Co. (54 Fed., 730) it was held that a mandatory injunction might be issued against several railroad companies and their employees, at the instance of another railroad company, enjoining defendant railroad companies and their employees from refusing to discharge the duties imposed by the interstate-commerce law and to receive and deliver complainant's interstate freight. In this case the court said:

> Nor is the mandatory injunction against the engineers an enforced specific performance of personal service. It is only an order restraining them, if they assume to do the work of the defendant companies, from doing it in a way which will violate not only the rights of the complainant, but also the order of the court made against their employers to preserve those rights (p. 743).

In Toledo, etc., R. Co. *v.* Penn. Co. (54 Fed., 746), a contempt proceeding for violation of the injunction awarded in Toledo, etc., R. Co. *v.* Penn. R. Co. (supra), it appeared that an engineer who had notice of the injunction during the course of his run disobeyed orders of his employers to attach to his train a car of the boycotted company and announced that he had quit his employment. He nevertheless remained with the engine for five hours, and on notice from his union that he might handle the car promptly attached it to his train, which he brought to its destination. This was a plain case of a labor union attempting to determine the enforcement or nonenforcement of the act to regulate commerce. On these facts it was held that he had not quit the service in good faith; that his contract was a trick to avoid obeying the order of the court and that he was punishable for contempt for violating the order. This decree was affirmed by the Circuit Court of Appeals in Lennon *v.* Lake Shore, etc., Ry. Co. (22 U. S. App., 561), and the decree of that court was subsequently affirmed by the Supreme Court of the United States in Ex parte Lennon (166 U. S., 518).

In Toledo, etc., R. Co. *v.* Penn. Co. (54 Fed., 746, 755) the court said:

> If the employee quits in good faith, unconditionally and absolutely, under such circumstances as are now under consideration, he is exercising a personal right which can not be denied him. But so long as he continues in the service, so long as he undertakes to perform the duties of engineer or fireman or conductor, so long the power of the court to compel him to discharge all the duties of his position is unquestionable and will be exercised.

11. PERSUADING OTHERS TO STRIKE FOR UNLAWFUL PURPOSE IS ITSELF UNLAWFUL.

In Martin's Modern Law of Labor Unions, section 60, it is said:

> The right of each party to strive to obtain the terms most beneficial to himself and the right of a number of persons similarly situated to unite to accomplish such ends is clear, and individuals having similar interests may, by all peaceable argumentative means, persuade others to join with them in their efforts to do what they fairly consider to be beneficial to themselves as a class. What is here said presupposes, of course, that the persons sought to be persuaded are not asked to do something unlawful as, for instance, to commit a breach of contract of employment for a definite time, and that the strike itself is lawful. If the strike is unlawful any acts done in furtherance thereof,

though innocent in themselves, would necessarily be of the same character and may be enjoined if the conditions which call for equitable relief by injunction are present.

To the same effect see A. R. Barnes & Co. *v.* Chicago Typographical Union (232 Ill., 424; 83 S. W., 940), Reynolds *v.* Davis (198 Mass. 294; 84 N. E., 457).

12. PAYMENT OF BENEFITS TO PARTICIPANTS IN UNLAWFUL STRIKE.

An injunction will lie to prevent the payment of strike benefits to persons engaged in an unlawful strike.

In Reynolds *v.* Davis, supra, it was held that a particular strike was illegal and that the plaintiff employers were entitled to an injunction restraining the defendants from combining together to further such strike "and from doing any acts whatever, peaceful or otherwise, in furtherance thereof, including the payment of strike benefits and putting the plaintiffs on an unfair basis."

In A. R. Barnes & Co. *v.* Chicago Typographical Union (232 Ill., 424; 83 N. E., 940), it was held that where the object of the strike was unlawful the offer by a labor union of money or the procuring of places of employment in other cities, or the offer of transportation to other cities as a means of inducing employees of plaintiff to join the strike would be enjoined.

LIMITING FEDERAL INJUNCTIONS

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

SIXTY-SECOND CONGRESS.
SECOND SESSION

ON

H. R. 23635

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CODIFY, REVISE, AND AMEND THE LAWS RELATING TO THE JUDICIARY," APPROVED MARCH 3, 1911

Printed for the use of the Committee on the Judiciary

PART 2

WASHINGTON
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1912

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UNITED STATES SENATE.

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THURSDAY, JUNE 13, 1912.

SUBCOMMITTEE OF THE COMMITTEE ON JUDICIARY,
UNITED STATES SENATE,
Washington, D. C.

The subcommittee met at 10.30 o'clock a. m.

Present: Senators Nelson (chairman) and Sutherland.

The CHAIRMAN. Mr. Monaghan, you may proceed. Will you kindly state the name of the organization you represent?

STATEMENT OF MR. GEORGE F. MONAGHAN.

Mr. MONAGHAN. Mr. Chairman, I represent the National Founders' Association, an association consisting of 500 of the largest foundry and manufacturing establishments of the United States, involving a capitalization of approximately $500,000,000, and with a proportionate number of employees. The names of the members will be filed with the committee. The association represented by me, as well as the individual members of it and the ramifications of it throughout the various cities of the United States, are very vitally interested in this bill. The measure itself, speaking of it generally, is very cleverly drawn and designed to accomplish the direct purpose of nullifying completely the effect of injunctions in labor disputes. It may be well at this time to emphasize the fact with the committee that there has been no hearing at all given upon this bill by the House committee. The measure which was presented to the House committee, known as the Wilson bill, was considered and a hearing was granted by the House committee, but the Wilson bill was so extremely radical in form and its purpose so obvious that we contented ourselves with a discussion of abstract law in the case rather than with a relation of the practical effects of the measure. The bill which is before us now accomplishes practically the same thing that the extremely radical wording of the bill introduced originally in the House presents, but under a different form.

It may be said in general that the bill now presented nullifies the common-law doctrine of conspiracy. It furthermore justifies the primary and the secondary boycott, and permits the so-called peaceful picket. Finally, it embraces class legislation in its most vicious form and deprives employers in labor disputes of injunctive relief from a class of wrong which would be illegal and criminal as applied to any other body of men in any other kind of contest.

There appears on the record of the House hearings absolutely no justification for this measure and no reasonable excuse for it. It has been claimed that union men and labor organizations in disputes with their employers throughout the United States have been unjustly treated by the courts, but I have yet to hear from the proponents of this bill of a single instance of abuse by the courts of the writ of injunction. It is true that errors have been occasionally made, but only very occasionally, and I am compelled to say that as compared with injunctions in other litigation the amount of error committed in connection with the granting of injunctions in labor disputes is small indeed.

INJUNCTIONS RARE IN LABOR DISPUTES.

It is well at this time, while adverting to the claim of organized labor that the writ of injunction has been improperly used and that labor is made to suffer very materially in consequence, to consider the number of injunctions that the organization represented by me has been interested in during the past eight years. The association, as I have already stated, is a large one, embracing members in practically every State of the United States, and numbering upon its roster 500 manufacturing establishments as members. Between the four years 1904 and 1907, inclusive, this organization was directly concerned through its membership in 300 strikes: in those 300 strikes only 34 injunctions were granted by the courts. In all those 34 injunctions secured, and in the 300 strikes in which we were interested, there were only 36 contempts prosecuted, and in those 36 contempt cases 32 convictions followed, and in the majority of instances the final result was the imposition of a fine.

The CHAIRMAN. Could you furnish us a list of those cases?

Mr. MONAGHAN. I have it compiled.

The CHAIRMAN. Will you leave it here with the stenographer to put into the record?

Mr. MONAGHAN. I will be glad to do so. [See Exhibit A.]

Senator SUTHERLAND. Were those cases in the State or Federal courts?

Mr. MONAGHAN. In the Federal and State courts both. During the last four years we have been concerned in 224 strikes. In those 224 strikes in which we have operated for the past four years there have been approximately only five injunctions applied for, five injunctions granted, and no prosecutions for contempt. So that in so far as we are concerned it will be clearly seen by the committee that under the cricumstances narrated there can be no reasonable demand on the part of the labor organization for a relief from an intolerable condition.

The CHAIRMAN. Will you allow me to interrupt you a moment? Could you furnish the committee with a memorandum or a statement of the injunctions in those cases; that is, the restraining orders?

Mr. MONAGHAN. I can if the committee will allow me to take some time within which to do so. I could not, of course, do it to-day. [See Exhibit G.]

The CHAIRMAN. Could you furnish us a copy of the injunctional or restraining order?

Mr. MONAGHAN. I will be glad to do that, Mr. Chairman. Further than that, before I conclude I will present to the committee in compiled form the affidavits or a compendium of the affidavits upon which those writs were granted in various cases during the first four-year period I mention, which is the only compilation I have at the present time. [See Exhibit A.]

Senator SUTHERLAND. Let me see if I understand you. During the last four years there were how many strikes?

Mr. MONAGHAN. About 224.

Senator SUTHERLAND. And in those strikes there have been only five injunctions applied for?

Mr. MONAGHAN. On the part of those concerned with our organization. I do not say there have not been injunctions applied for by other organizations—for example, by the Anti-Boycott League or other institutions independent of our organization—but our organization, concerned with 500 of the largest manufacturing companies, like the Allis-Chalmers Co. and others, has only been concerned with applications for injunctions in about that number of cases. This does not comprise other strikes between the Iron Molders' Union and concerns not connected with our organization.

Senator SUTHERLAND. You mean by your organization anybody who is a member of it?

Mr. MONAGHAN. Exactly. There is a further fact I desire to emphasize before the committee, which has always been adverted to, not only before this committee, but before other committees. From 1900 to 1912 in the Federal courts there have been only 25 injunctions.

The CHAIRMAN. In labor disputes?

Mr. MONAGHAN. In labor disputes. There have been only 25 injunctions which appear of record in the Federal courts and 447 injunctions in other cases not involving disputes of labor. So again I emphasize the fact that union labor in this connection has endeavored to build a mountain out of a molehill for the purpose of affording it an opportunity to create a false issue and to dominate by force the manufacturing industries of this country. In other words, it has maneuvered to place itself in a position where when a struck foundry is without remedy at law the union may with impunity violate the law of conspiracy as recognized from the first day of the foundation of this Republic down to the present time, persecute institutions, industrial and otherwise, and attack the independent workmen in a manner which would be criminal in any other controversy and leave the unions and their members free from legal responsibility, with the ultimate object in view of dominating or destroying the industries opposing them.

The CHAIRMAN. Could you furnish us with data with reference to these strikes that you refer to, as to the grounds on which the strikes are instituted, whether for shorter hours and better wages, or whether, as some of you call it, to "unionize"; that is, to prohibit the manufacturers from employing anybody but union men? I would like to get that information if you can furnish it.

Mr. MONAGHAN. It is possible to furnish it, and I shall be very glad to file that data with the committee. However, the committee must understand that in order to compile that data in such form as would be at all satisfactory to the committee some time must be taken for the purpose of collecting the facts from the various institutions which have been interested, but that time need not be long. So fast as the mails can act, we will act. [See Exhibit B.]

LABOR CONDITIONS IN AMERICA.

In answer to the query made by the chairman, let me further state that the condition of labor in this country is the equal of the condition of labor in any other country under the sun. I say that conservatively, because I believe, from consideration and examination of the bulletins issued by the Department of Labor, that the condition of labor in this country as regards wages and conditions is better than in any other nation and that the strikes which are instituted to-day and have been in progress for the past eight years and more have not been called, as a general rule, to increase wages or to improve shop conditions, or to secure the installation of safeguards surrounding machinery, or to perfect the sanitary conditions of the shop, or to effect changes directly pertinent to any workman, whether he is a member of a labor organization or not. The strikes that have been instituted in the vast majority of instances have been called solely to fasten on the industries affected the un-American doctrine of the closed shop. This being, then, the chief cause of labor disputes, it is pertinent to inquire into its purpose, the number of workmen affected, and whether its purpose at all justifies the denial of legal relief to one employed when attacked.

CHIEF PURPOSE OF STRIKES TO-DAY IS THE ESTABLISHMENT OF THE UNAMERICAN DOCTRINE OF CLOSED SHOPS, AGAINST WHICH THE INDEPENDENT WORKMEN AND EMPLOYER ALIKE PROTEST.

Let us realize the fact that in the United States there are, according to reports by the Bureau of Labor, approximately 30,000,000 men, women, and children engaged in gainful occupations. That, of course, is all-embracing. There are 2,000,000 men united in organized labor, including all the unions of the United States. The vast majority of men working at trades, working at agriculture, working in manual pursuits, are not organized, and a great proportion of these men who might join labor organizations have not done so. They stand as independent workmen, and many of those men are men employed by the manufacturing institutions represented by me. These men refuse to join the labor organizations because of the burden that labor unions put upon them. This burden is found not alone in the financial contributions they would be obligated to make to the union exchequer, but the restrictions enforced by the unions limiting the amount and character of their work and the wages they may receive. For example, a man who is an industrious molder, an expert metal polisher, or a printer may, if he is allowed, make $6 a day on the piecework system, or perhaps 8 or 10, but the union restricts the amount of his work, hence the amount of his wage, and sacrifices his expert ability to the average ability of other workmen. He might be able to finish his work under union limitation by 2 o'clock in the afternoon, but the union requires that he shall not work any longer if the union measure is filled, and if he does a strike is declared upon that shop if the em-

ployer tolerates it. These independent workmen are just as devoted to the principle of open shop as labor organizations are devoted to the principle of closed shop, and for myself I may say, and for those whom I represent, the claim of labor organizations that they speak for the labor of this country in all of its ramifications and all of its trades is emphatically sheer bluff and bluster.

Under the open-shop principle all manufacturing institutions do not discriminate, though they have a right to do it legally, as between union men and nonunion men, and in jurisdictions where the union is not sufficiently strong to absolutely command it union men work side by side with nonunion men. We do not discriminate and have not discriminated between men belonging to a labor organization and men who do not. What we object to under the closed-shop principle is that it permits the walking delegate of a labor organization to step into our plants and attempt to run them. The organization is substituted in place of the men. It matters not how satisfied they may be, it matters not how content the employer, if conditions do not conform themselves in all particulars to the whims of so-called labor leaders, strife is formulated and strikes declared. In answer to the statement by the employer that his men are satisfied, that they are content with their wages and content with their conditions, the answer will invariably be "It makes no difference; if these men are union men, they subscribe to the constitution and by-laws of the labor union and we demand you conduct your shop in the manner we require." The labor union requires that we shall employ none but union men, that our reasons for discharge shall be subject to their approval, that hours of work and pay for work and limitations of product shall be within their power to direct, that we can not discharge a man for any cause without union assent, and similar drastic conditions. The kinds of work a union man is limited to do are illustrations of the drastic character of the union regulations as applied to industrial establishments, and withal the individual workman may be content, but the union assumes to direct his action and control the acts of his employer by force of union threat of strikes and boycott. These are minor forms of the intolerable conditions that find themselves exemplified in every institution which is dominated by labor organizations.

The CHAIRMAN. There is another thing that occurs to me which I would like information about, and that is, What is the rule in these several organizations or unions with reference to admission of apprentices? I would like you to furnish the committee with information as to that.

Mr. MONAGHAN. I shall be very glad to do that. I will say, in answer to the request, that data will be furnished. Furthermore, I claim that there is a restriction placed upon the apprenticeship of this country to such an extent that if we and employers generally throughout the country subscribe to the closed-shop principle it means an absolute monopoly of labor by labor unions and indirectly the control by them of all of the industries of this country in the trades dominated by the labor organizations.

The CHAIRMAN. I want to say, based on common rumor or newspaper statements or magazine statements, that I understand some unions in some lines have no limitation, while in others there is a restricted limitation, that it is not the same in all cases?

Mr. MONAGHAN. That is true. I know that it is true, generally.

The CHAIRMAN. But you will furnish us the information as to that?

Mr. MONAGHAN. I will. [See Exhibit C.] I speak with absolute authority with reference to the molders, with which I am more familiar.

The CHAIRMAN. Where they have that rule, that is going back to the theory of the gilds of the Middle Ages. They had restrictions about apprenticeships.

Mr. MONAGHAN. I am satisfied that history bears out the statement of the chairman. I scarcely need comment before this committee what restriction of apprenticeship means when enforced to an unreasonable degree. It implies that the young men of the country not having an opportunity to learn their trade are necessarily forced into other lines of activity, leaving to the older men the absolute control of the labor market. The less the number of apprentices the less the number of men who are afforded opportunity of learning the trade, hence with advancing years the greater the control of the labor market by organized labor. [See Exhibit C.]

NO REASONABLE CAUSE FOR THE PASSAGE OF THIS BILL.

Referring again to the statement that there is no real demand and no reasonable cause for the passage of such a measure as this, and that the call of labor for relief is not justified, let me further emphasize to the committee that it is not an easy thing in a Federal court to-day to obtain an injunction against a labor organization, nor has it been. On the contrary my experience has been, and I am sure it is the experience of every lawyer who has been engaged upon this class of litigation, that the pleadings are carefully scrutinized, that the injunction order itself is carefully censored, and the interests of labor organizations in the issuance of temporary relief are carefully looked after, as they should be, by the court that issues the writ. So much is this so that invariably we do not apply for an injunction until every other possible remedy has ceased to be effective.

In Detroit, prior to the time that an injunction was applied for in the metal polishers' strike in that city in recent years, we subjected ourselves to a position and condition where every night every man in our employ was accompanied to his home by an officer, where on occasions the number of strikers in the vicinity of our plant numbered into the hundreds and closer to the thousands in hostile array drawn up. I have seen our men accompanied by a battalion of 25 or 30 mounted police in order that they might safely reach their cars. On the cars they were attended by men in authority to see that they reached their homes. Repeated assaults, vile abuses and threats, repeated even to the wives and children of the employees, were, as is usual, the accompaniment of the strike; but even under such circumstances we did not ask for an injunction until the conditions became so intolerable and the criminal courts and the police proved so unable to cope with the situation that the only thing for us to do was to apply to a court of equity for relief. Instances might be multiplied of cases where the employer has patiently waited and subjected himself to almost intolerable conditions without applying to the courts, for the reason that courts generally are not disposed to grant an injunction unless the relief is most pressingly necessary and every other possible expedient has been tried and proven ineffective. The law regulating the writ of injunction should be broadened rather than restricted, if any remedy is to be applied or any change in present regulations made.

The CHAIRMAN. I understood you to say a moment ago that since 1890 there have been only 25 labor injunctions issued by Federal courts?

Mr. MONAGHAN. That number in the records of the courts, found in the printed decisions.

The CHAIRMAN. You mean you find those in going through the Federal Reporter and the printed reports?

Mr. MONAGHAN. Yes.

The CHAIRMAN. Would all of those cases appear in the reports?

Mr. MONAGHAN. I doubt whether they would. I have in mind an illustration of a case in Philadelphia, the Allis-Chalmers Co. versus the Iron Molders' Union. My judgment is that case does not appear in the printed record, and the reason is the union never defended it. Let me state conditions to the committee. It is a rather uncommon thing for a union to defend injunction proceedings. When I say "uncommon" perhaps I use too strong a term, but the unions do not ordinarily seek equity when they are participating in the kind of action usually reflected in the average strike. They do not care to have themselves and their acts scrutinized; they do not care to have their officers subjected to cross-examination; they do not care to have their books brought into court and the details of their conspiracy probed, and as a consequence they seldom take advantage of the rule of court which permits them to move for a dissolution of the temporary injunction, or to defend the question of whether or not a permanent injunction should be issued.

The CHAIRMAN. Have you any information upon which you could base judgment upon the number of injunctions issued in labor disputes which have not been reported?

Mr. MONAGHAN. I have no data on that subject which would be definite. The only suggestion that could be now offered by me would be drawn from my own data, where 300 strikes were involved and only 32 injunctions asked for in both State and Federal courts. The proportion of injunctions asked for upon which no defense is ever offered is larger than the number of injunctions actually defended by the union.

Senator SUTHERLAND. Can you tell us how many labor strikes there have been altogether during the periods you have mentioned?

Mr. MONAGHAN. In all organizations?

Senator SUTHERLAND. Yes.

Mr. MONAGHAN. I could not. I doubt whether the Bureau of Labor has that data, but it might possibly be ascertained from that source.

Senator SUTHERLAND. I suppose in these 25 cases you speak of a restraining order was issued in the beginning?

Mr. MONAGHAN. No.

Senator SUTHERLAND. In how many of them was a restraining order issued?

Mr. MONAGHAN. I must give a percentage in that answer, because I have not the data right before me to give a definite reply. I should say an order to show cause in advance of the issuance of the restraining order was issued in at least 50 per cent of the cases, and I shall say for myself that in every case in which we have applied to a Federal court, an order to show cause was issued preliminary to the granting of even temporary relief.

Senator SUTHERLAND. Then in something like 12 or 13 cases the restraining order was issued in advance of the order to show cause or with the order to show cause?

Mr. MONAGHAN. Yes; I should say at least that. I do not want to be bound by that statement of percentage, because my judgment is, it is very much less; but I would rather err on the conservative side.

Senator SUTHERLAND. Would you say, then, not to exceed 12 or 13 cases?

Mr. MONAGHAN. I would.

Mr. EMERY. Along the line of your inquiry, I want to call the Senator's attention to the fact that in the argument I made before the House Judiciary Committee I filed all the cases which are the subject of the Senator's inquiry, and I not only have given the comparative number of cases in which injunctions were issued in labor disputes and in all other disputes which appear in the Federal Reporter, but I have given a list of the cases, giving the name of the case in each instance, the date of the issuance, the name of the judge, and the district in which it was issued. In addition to that, I undertook to make an inquiry in order to cover what the Senator has called attention to—that is, the number of injunctions issued under circumstances which did not appear in the record—by writing a letter to the clerk of each circuit and district court of the United States, asking them whether or not they had a record; and if so, to give us the number of cases. In response to that inquiry I think I have included the data in there, and the percentage was exceedingly small. In addition to that, Senator, the number of cases in which restraining orders were issued in all the cases which appear of record is also contained in the data presented.

The CHAIRMAN. And where they were issued without notice?

Mr. EMERY. Yes, sir. In addition to that, all the injunction data which Mr. Gompers supplied to the committee was analyzed in that argument and the analysis accompanies the argument there.

The CHAIRMAN. Is that in the printed House report?

Mr. EMERY. Yes, sir; it is in the printed House report. In addition to that, just as an illustration of the Senator's inquiry, in one leading industrial State, to wit, Massachusetts, the only State which I know of that has the data, the Commissioner of Labor was instructed to make an examination of the number of injunctions issued in labor disputes and that data covers a period of 11 years. It shows there were 2,002 strikes reported in that State during that time. There were 66 applications for injunctions, 44 injunctions were issued, and two persons punished for contempt during that period.

Senator SUTHERLAND. One other inquiry I would like to make. Can you tell the committee generally or specifically how long a time elapsed after the restraining order was issued until the hearings were had on the order to show cause?

Mr. MONAGHAN. I should say not to exceed 10 days, unless on motion the union itself applied for an extension of time.

Senator SUTHERLAND. You mean that generally, in all the cases?

Mr. MONAGHAN. I mean that generally.

Senator SUTHERLAND. Then you mean to tell the committee that in these 12 or 13 cases, if that be the correct number, where the restraining order was issued, a hearing was had upon the order to show cause within 10 days unless the representatives of the union involved in the particular case applied for an extension of time?

Mr. MONAGHAN. Exactly. Either that or the union failed to defend. Further, in view of the fact that a compilation of the matter referred to has already been made and is now a matter of record, I

would prefer that the exact data as given should take precedence over the percentage expressed.

Senator SUTHERLAND. Is that information shown, Mr. Emery?

Mr. EMERY. Yes, sir; the data show where the restraining order was issued, the time it was issued and if there is any delay I think it also appears in the record.

The CHAIRMAN. I would suggest that the information you state, which is contained in the House hearings, you cut out and leave with the stenographer so that it may be copied into the hearings here in order that we may have it before us.

Mr. EMERY. It is also published in the Congressional Record.

The CHAIRMAN. I would like to have it in this report so when we go over the case we can have it altogether.

Mr. EMERY. It was my intention to make it part of my remarks.

The CHAIRMAN. Well, we will let it go until that time. Proceed, Mr. Monaghan.

PROVISIONS FOR SERVICE IN FIRST SECTION OF BILL, UNFAIR AND IMPRACTICAL.

Mr. MONAGHAN. In order that our objections may be more specific, it will prove of advantage if we now consider the separate sections of the bill. We first wish to call the committee's attention to section 266 of the bill, which is amendatory to the present rule regulating the issuance of injunctions or restraining orders. Section 263 reads:

That no injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an oppotunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined a reasonable time in advance of such application. But if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury is likely to ensue the complainant, and that the giving of notice of the application or the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

At first blush to those who might not be frequently concerned with the matters involved in labor disputes, it might appear that the rule established in this special instance is reasonable, but closer analysis discloses quite the contrary. If a manufacturing establishment were involved with another manufacturing establishment in a suit concerning a patent or a patent right, perhaps the matter of the issuance of a restraining order which would expire within seven days might not result in harm, assuming that there would be no irreparable damage created by the nongranting of the restraining order immediately upon the filing of the bill. But in "strike" litigation we are not concerned with one defendant, but with hundreds of defendants, besides their associates, confederates, and allies. In an ordinary labor dispute, after notice has been served, if any is to be served, upon one or more of our manufacturing institutions about to be struck and the men leave their work and go upon the streets, they are not alone concerned from that time on with the men to the

number of thirty or forty or one hundred, as the case may be, who left our employ, but they are concerned with every member of that particular labor organization in that district. We are concerned with all those confederated with them under the term "American Federation of Labor"; we are concerned with those working in the plant located next to ours; we are concerned with those working in the plant 5 miles from ours, and with others who become active through sympathy or pay with the strikers. The customary procedure in connection with these disputes is for the union workmen at plants located 2 or 3 miles away from the plant which has been struck to declare a holiday and repair in large numbers to the struck plant to participate in so-called peaceful picketing or similar conduct.

By way of illustration, this method is commonly invoked in the city of Detroit by the employees of the Michigan Stove Works, numbering a couple of thousand. They will declare a holiday for a day, or if the weather is sufficiently warm they will take a straw vote and will do what they term "break heat." That shop is completely unionized and for it I do not speak. But immediately upon the breaking of that heat, which is done by means of cooperation between the molders of the employers of the struck shop and the employees of the Michigan Stove Works, those 2,000 men, or a large proportion of them, immediately adjourn to the other plant. We have no means of knowing who those 2,000 men are, or who those 500 men are, as the case may be. We have never seen them before, yet they congregate before our plant, accost our employees as they leave their place of work, follow them along the streets, practice every sort of coercion and intimidation against them, assuming that no violence is done in the beginning, and use such other means as are calculated to inspire fear in the workmen and to cause annoyance to the employer. How in the various jurisdictions of the Federal courts are we to get service of a restraining order on these men within seven days? We can not sue the union as a voluntary unincorporated association, because there is no statute upon the books of the Federal Government which permits a suit against a voluntary unincorporated organization as such. If we desire to name the men as parties to the bill who are the ringleaders and actively cooperating in conspiracy, we must in some instances incorporate the names of men to the number of hundreds. True, we do not always even get that list, but we do secure a list of many who by assiduous application we are finally able to identify. A common expedient used by unions in this connection is a change of pickets. If several plants are struck, the pickets stationed to-day at the plant of the Ideal Manufacturing Co. will be moved to-morrow to the plant of the American Blower Co. They change about in that fashion, their location is unknown, some of their residences are unfixed, and it becomes almost impossible to make rapid service upon all of them.

More than that, other expedients are adopted; for example, recently in the city of Brooklyn one of the methods adopted for the purpose of avoiding identity in the instance of assault was to dress their so-called strong-arm men in women's clothes so that they might be able to more nearly approach a man whom they intended to attack.

I am only speaking of instances supported by court decrees and affidavits and testimony in court. Under those circumstances the committee will see the impossibility of conforming to the requirements of this law if the writ of injunction is to continue. This bill provides

that it is only when irreparable damage is threatened and can be averted by the issuance of a restraining order that the restraining order shall be issued at all by the court. Assuming that condition, we must make service upon all the parties to the bill within seven days after entry of the order. All that the defendants, or a portion of them, need to do is to avoid service for seven days and the restraining order expires by limitation, unless upon cause shown an additional seven days is granted. In the additional seven days those already served must be re-served, and at the end of the period the same difficulty presents itself and the order ceases to be effective.

The law governing injunctions assumes that we can not successfully obtain or continue an injunction unless we have no other adequate remedy. Assuming then that we have no other remedy at law, we are left absolutely powerless not only against peaceful picketing, so-called, but powerless against violence, assault, murder, and dynamiting, and all those things commonly known to be used by labor unions in their times of dispute.

The CHAIRMAN. As I understand it, the sum and substance of your argument is this: That a temporary restraining order does not become effective for any substantial purpose until it is served on the defendants, and if they succeed in evading that service within the seven days it amounts to nothing at all?

Mr. MONAGHAN. Absolutely nothing at all unless we get an extension.

The CHAIRMAN. And if they evade service for the next seven days, so you can not serve them, your temporary restraining order is practically a nullity?

Mr. MONAGHAN. Yes; and we will have no injunction at all. We may institute a new suit, but the same difficulties are attendant upon it, and in the meantime rights are violated with impunity.

Senator SUTHERLAND. What is the purpose of putting in the word "entry," as you understand it? What was the argument offered for that?

Mr. MONAGHAN. The reasons might be advanced better by the labor advocates than by myself. I can not see any reason for it. The distinction, however, is this: The date of entry of the order is the date upon which the order is made a matter of record in the court.

The CHAIRMAN. As the bill reads, it says: "Every such order shall be indorsed with the date and hour of issuance and shall be forthwith entered of record."

Senator SUTHERLAND. I am asking why they provided that it should expire within such time after entry, not to exceed seven days, instead of within such time after service, or some other equivalent expression.

Mr. MONAGHAN. As I have stated, the argument in favor of such an unheard-of proposition might possibly be advanced better by the labor-union advocates. If the limitation is to date from the day of service, then the objection that we make to the proposition is partially eliminated; we may in the meantime possibly be able to serve other defendants, and it does not involve the necessity of a reservice upon them; but if the limitation is to date from the time of entry, then all the evils I have pointed out naturally flow and follow.

Senator SUTHERLAND. One objection occurs to me about the use of the word "service," and I wondered whether that was in the minds of those who used the word "entry"—that is, if it said, "shall be seven

days after the service," the applicant for the injunction might delay the service.

The CHAIRMAN. There ought to be a provision in there requiring immediate and prompt service.

Senator SUTHERLAND. This is what occurred to me: If you say that the injunction shall continue in force only for seven days after service, then, of course, it is measurably within the power of the applicant for the injunction to extend that seven days indefinitely; that is, extend the time of the beginning of the seven days indefinitely. Suppose, however, that it should provide that within such time after service or appearance, not to exceed seven days, so that that would take it out of the power of the applicant to delay by failure to serve.

The CHAIRMAN. Suppose you would require that the order shall be served within 24 or 48 hours?

Mr. MONAGHAN. That would be impossible in any case I have been concerned with.

Senator SUTHERLAND. The point I had in mind was, when a suit is brought against strikers for an injunction they need not wait for service. The parties sued may immediately appear and themselves initiate the beginning of the seven-day period.

The CHAIRMAN. In other words, "accept service."

Senator SUTHERLAND. Accept service, in other words.

Mr. MONAGHAN. There is nothing in the act that prevents that, is there?

Senator SUTHERLAND. It might be if it was to read "such time after service." Service or appearance was the thought I had in mind.

Mr. MONAGHAN. It is clear that the word "entry" as contained in the bill is seriously objectionable. To the suggestion made by the Senator I have this thought to offer: There is no such condition existing to-day as demands a change in the method in vogue in Federal practice at the present time with reference to the issuance of restraining orders. It appears from the argument of gentlemen favoring this bill that the unions, by virtue of the issuance of restraining orders under the present practice, are practically deprived of any right to appear and suspend the continuance of a restraining order already issued. But the fact is that under the rule at present they can appear at once; they can appear before service; they can appear immediately after the entry of the bill of complaint and forthwith move the court for a dissolution of the injunction. What improper burden is imposed upon them in that connection? Why accompany a restraining order, under the circumstances, with any order to show cause at all? If defendants wish to move against an injunction improvidently issued at the present time, they have a well defined and prompt remedy. I say, Mr. Chairman, in all good faith, that the purpose of that section of the bill is purely to so affect procedure that the issuance or continued effectiveness of temporary restraining orders shall be discontinued or destroyed.

The CHAIRMAN. If you follow the practice which prevails in our part of the country, the temporary restraining orders are ususlly issued in this form: There is an order to show cause to defend, say within 7, within 5, within 10, or within 15 days, as the case may be, and in the meantime until they have appeared in court to show cause they are temporarily restrained. If you put it in that form, no harm could arise, you could make the order to show cause very short, make it seven days, and then if they appear in court and show cause, that

would be the limit, and the temporary restraining order would only operate for that time. To adopt that procedure I think would be a way out of the difficulty, it seems to me. Does that not strike you so, Senator?

Senator SUTHERLAND. Of course I think every lawyer who has ever practiced at the bar recognizes the absolute necessity in some cases of issuing a restraining order. Otherwise the damage might be done. However, I see no reason why there should not a be reasonable limitation upon the time that a restraining order shall continue in force. According to what Mr. Monaghan says, the usual time has been not to exceed 10 days within which the order to show cause has been heard, unless upon application of the striking workmen; and it would seem to me that in most cases the applicant for the injunction ought to be able to present his case for a temporary injunction within that time, or within the period of 7 days, with the provision that at the expiration of the 7 days for good cause they may have another extension of 7 days, but limit the operation in all events to the 14 days.

Mr. MONAGHAN. The fault of this measure is that at the end of 14 days there is absolutely no chance of the continuance of the temporary restraining order under the proposed act, and I say that is vicious.

Senator SUTHERLAND. The hearing upon the order to show cause would have been had at that time and the court prepared to rule upon it.

Mr. MONAGHAN. The hearing upon the order to show cause with reference to those who have been served. Is that what you wish to convey?

Senator SUTHERLAND. No; that would not be so if the bill were amended in the way I have suggested, if it were amended to provide that the seven days should begin to run from the time of service or appearance.

Mr. MONAGHAN. And limit the time within which service might be made? I think that would be unjust as well.

Senator SUTHERLAND. That was not within my contemplation, because I can see that that would not fit all cases. You may have a large number of people to serve scattered over a wide territory.

The CHAIRMAN. The strikers would have a good opportunity to limit that time if they would allow service to be made on them?

Mr. MONAGHAN. Yes; but on the other hand they could deny effect to the injunction altogether by keeping out of the way.

The CHAIRMAN. That is what I mean, by making it run from the time of service; if they wanted to shorten the time they could permit service to be made immediately.

Mr. MONAGHAN. That is very true.

The CHAIRMAN. Instead of evading the service?

Mr. MONAGHAN. That is true.

Senator SUTHERLAND. I can see with the use of the word "entry," unless I hear something to the contrary about it, a very great injustice might result.

Mr. MONAGHAN. To my mind this measure in the provisions which it suggests is even more serious and radical in its influence than that which has already appeared. Section 266a reads as follows:

That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant in such sum as the court or judge may deem

proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

I am not going to discuss this section. It has been argued by Mr. Walker from the standpoint of patent law and the injustice that might be done a poor inventor who might not be able to provide the necessary bond. However, so far as we are concerned, applying myself particularly to labor disputes, I see no objection to the complainant giving security for costs. Certainly there would be no difficulty attached to our fulfillment of this provision, and I do not think the courts have abused their discretion. Hence I do not see any special reason for this section of the bill. Otherwise there is no objection to our giving security for costs upon the issuance of an injunction.

Senator SUTHERLAND. Of course this section of the bill applies to injunctions in all cases. It would apply to an injunction against the negotiation of commercial paper?

Mr. MONAGHAN. That is very true.

Senator SUTHERLAND. If the complainant brought an action to enjoin the negotiation of a note or other commercial paper, the person in possession desiring to negotiate it might avoid service until the expiration of the 7 days, or the 14 days, and then he would be relieved from any restraining order against the negotiation of the paper?

Mr. MONAGHAN. I can see where it would work injury in commercial matters very seriously.

Senator SUTHERLAND. Then this proposition is a very broad one which applies to all injunctions?

Mr. MONAGHAN. There can be no question as to the correctness of the thought suggested by the chairman. but my argument has been and is directed toward the propositions which have been involved with the concerns I represent, and I do not desire to branch out upon other matters not directly pertinent to our affairs. I have aimed to occupy the committee with matters that relate particularly to injunctions in labor disputes, fearing that the time might not be allowed or permitted for discussion of other matters that might be found in the bill as applicable to general industrial conditions.

Mr. DAVENPORT. Might I suggest in that connection that that applies to suits by the Government under the Sherman Antitrust Act? Who is going to give bond for the Government in a suit under the Sherman Antitrust Act, under the provisions of this bill?

The CHAIRMAN. Of course that could be cured by amendment.

Senator SUTHERLAND. I thought there was a general provision which excluded the Government from the requirement to give bond?

The CHAIRMAN. I think the Government is not required to give bond in cases of appeal.

REQUISITES UNDER THE BILL FOR DETAILED DESCRIPTION UNREASONABLE AND UNNECESSARY.

Mr. MONAGHAN. Passing to section 266b, it reads as follows:

That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail and not by reference to the bill of complaint or other document the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

The law and rules of court do not now require that degree of elaborateness specified in this section, nor is such a requisite at all necessary for the purpose of preserving the rights of the parties to the complaint. It—

shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail and not by reference to the bill of complaint or other document the act or acts sought to be restrained.

This practically means that in an injunction order we must set forth practically all that that bill of complaint contains. It requires, furthermore, a definite specification and description of the acts sought to be restrained. It is impossible to enumerate all the specific acts that might be utilized by strikers as a means to make their conspiracy effective. Their expedients are so many and they change so frequently that it is almost impossible to make them specific, excepting to enumerate certain acts that we do know about and to add a clause restraining the commission of all other acts of the same general character. The addition of such a clause could not be made under a strict construction of this bill. For example, we know in the metal polishers' strike it is not an uncommon thing for union men to have one of their members apply for a position. He enters or leaves the plant with a little dash of mercury in his hand and as he passes the solution used upon the metal to drop this little mercury in it and spoil all the work for all the men for all the day.

The CHAIRMAN. Can you give us any cases where that has been done?

Mr. MONAGHAN. Yes. The Ideal Manufacturing Co.'s plant at Detroit.

The CHAIRMAN. Will you furnish evidence to put into the record showing that?

Mr. MONAGHAN. I shall be glad to.

The CHAIRMAN. They have a new word coined for that?

Mr. MONAGHAN. I think it is "sabotage." Another illustration of one of the methods we might allege in the bill of complaint, but which by no means enumerates all the things that might be done in connection with labor disputes, is the insertion of a dynamite cartridge in a mold, which is not very difficult to do, as many men are engaged about a mold; and to drop a dynamite cartridge into the mold before the molten metal is poured into it is not a very difficult trick to perform—and has been performed.

Mr. GOMPERS. No more is it a difficult thing to indulge in untruths.

Mr. MONAGHAN. The insinuation made by the gentleman is that the statement is untrue. I will say that it is true; and I want to say further that I think the gentleman knows it is true.

Mr. GOMPERS. The gentleman knows he tells an untruth.

The CHAIRMAN. Can you furnish us evidence of an incidence?

Mr. MONAGHAN. Right now. In Cincinnati, Ohio, the iron molder's union, a concern identified with the American Federation of Labor. In the strike of 1904 F. L. Rauhausen, an apprentice boy employed by the Eureka Foundry Co., confessed under oath that he had been hired by the president of the iron molders' union in his office at Cincinnati to dynamite molds in the foundry at the price of $20 each. This confession was subsequently corroborated by the boy's father. The case was brought before court and the boy fined. There were several molds in that institution dynamited. Finally the cartridges were

found in this boy's pocket, and he subsequently confessed. Rauhausen first entered a plea of not guilty. At the trial his plea was retracted and one of guilty entered, apparently in order that evidence might not be used against officers of the molders' union involved. Rauhausen was fined $400, as appears by the records of the court, which was paid by the molders' union attorney of record.

The CHAIRMAN. What case was that?

Mr. MONAGHAN. That occurred in 1904 during operations against the Greenwald's factory by the iron molders' union et al. I will file this compendium with the committee. [See Exhibit F.] The Newport Foundry and Machine Co. litigation in progress at the same time supplies other instances of dynamiting. [See Exhibit G.]

Mr. GOMPERS. Mr. Chairman, I ask the opportunity to be heard at this time for a few moments.

The CHAIRMAN. Yes. Very well, go ahead.

Mr. GOMPERS. I shall not pretend to say that every man belonging to the organizations of labor is a law-abiding citizen. He is just as strong; just as law-abiding, and just as patriotic, though possessing some of the weaknesses of ordinary mortals. However, the statement of Mr. Monaghan before this committee has taken on such a wide range, and he has presented, unsupported by anything in evidence, an indictment so general against men of organized labor, of the organization with which I am attached, and implicating men whom I know personally as well as officially, that I can not remain longer silent without having requested this committee to be heard for a moment. The case that Mr. Monaghan has just presented to this committee justified my statement to you in interrupting him to say, as he said, the dropping of a dynamite bomb is not a difficult trick, "no more is the use of an untruth a difficult trick." The very case that he mentioned the press of the country was filled with at the instance of the association of which Mr. Monaghan represents before this committee, charging Mr. Joseph E. Valyntine, the president of the Molders' Union of America, with having done that thing, with having hired that boy, with having had that conference with that boy, and inducing him to do that thing.

The CHAIRMAN. Will you allow me just a brief moment? I do not want to break in on you, but you do not deny the fact that there was such a case of that boy and that he was fined $400?

Mr. GOMPERS. If you will permit me to make my statement, very well; otherwise I prefer not to continue.

The CHAIRMAN. Go on and state it in your own way.

Mr. GOMPERS. I say that the president of the International Molders' Union of America, Mr. Joseph F. Valyntine. was pilliored in the newspaper dispatches sent out as if he had done that thing which Mr. Monaghan says he did. The fact of the matter is that he never, never had the slightest connection with that boy's doings. and it was so admitted by everyone who had knowledge, and so admitted in the record. It is the easiest thing in the world to besmirch men's characters. I know nothing of the instance except as it was conveyed to me, and in so far as Mr. Valyntine is concerned. verified absolutely.

The CHAIRMAN. There are two questions I would like to get information on. If you object, you need not answer. Was the boy a member of the union?

Mr. GOMPERS. No, sir; he was not.

Mr. MONAGHAN. His father was.

Mr. GOMPERS. Perhaps no doubt there are some who are honest workmen, even in your family, who are members of the union.

The CHAIRMAN. There is one other point and I shall not interrupt you any more. Was the boy's fine paid by the attorney for the union?

Mr. GOMPERS. I do not know, but I do not believe it.

The CHAIRMAN. That is all. Now you may go ahead.

Mr. GOMPERS. I had no intention of saying a word before the committee, certainly not this morning, but I could not remain silent in hearing a man attack the character of another whom I know to be as honorable and as straightforward and as patriotic a citizen and high-minded a man as there is anywhere in this country, without the exception of anyone. It does not do the very bad cause represented by Mr. Monaghan any good to attempt to bring into disrepute the name and character of Joe Valyntine.

Mr. MONAGHAN. I might say to the committee that it was not my purpose here to foment trouble before this committee; it is rather for the purpose of preventing the possibility of future discord and assault and murder. As to Mr. Valyntine, I do not enjoy his personal acquaintance, and I am merely reading from the record I have presented to the committee. Whether he advised this man personally I do not know, nor can I vouch for it. The fact is found in this record "A policy of lawlessness" [see Exhibit A] with reference to what was done and what this fine was. I can go further and state that affidavits along the line of assault and dynamite are filed in the court records in Cincinnati. In regard to the injunctions that were issued in the Cincinnati cases, I will furnish to the committee copies of the affidavits filed.

The CHAIRMAN. Will you furnish us the entire record in that case?

Mr. MONAGHAN. I think I can. I will endeavor to do so, but I must, in order to prepare all this matter for the committee, have time sufficient within which to do it. [See Exhibits D, E, and F.]

Senator SUTHERLAND. As I understand you have read a statement which you say tends to show that Mr. Valyntine procured this act to be done by the boy. That is the substance of your claim, is it not?

Mr. MONAGHAN. Such is the charge made by the interested Cincinnati parties.

Senator SUTHERLAND. Now, if Mr. Valyntine did that he is just as guilty as the boy?

Mr. MONAGHAN. Certainly.

Senator SUTHERLAND. Was he prosecuted?

Mr. MONAGHAN. No.

Senator SUTHERLAND. Why not?

Mr. MONAGHAN. That I can not answer for, though it is my belief that complaint was made, excepting to say this: The conditions in Cincinnati at that time were such as scarcely to invite very strong activity with reference to the punishment of any man. Another illustration happening on October 8, 1904, further fortifies my position. Samuel Weakley, a nonunion molder, working in Greenwald's factory, Cincinnati, was murdered in cold blood by William Friend, alias Patton, a union iron molder. Weakley, a nonunion molder, was approached by Patton and two others on Vine Street, in the city of Cincinnati, which was a fairly well-lighted street at the time this man was shot down. Without further preliminary a question was

asked of him by Patton, a member of the union, as to whether or not he was a nonunion molder.

Senator SUTHERLAND. Was he the man who shot him down?

Mr. MONAGHAN. Yes; he had one man with him. I would like to say right now, Mr. Chairman, that I am speaking with knowledge from affidavits. That man ran from the scene leaving a revolver near the man murdered, but the gun was not exploded. The scheme had been to leave a revolver and fire one; he was to fire a shot from both pistols and leave one near the man for the purpose of establishing self-defense. His scheme miscarried, and he fired two shots from one pistol and ran. The man who accompanied him and participated in the assault escaped, but the murderer was caught close to the union headquarters. He was arrested and prosecuted for that murder. The best we could get was a plea of guilty to manslaughter.

The CHAIRMAN. He plead guilty to manslaughter?

Mr. MONAGHAN. Plead guilty to manslaughter under arrangement, not with us, but with prosecuting officers, and was sentenced to 20 years in prison. The subsequent history of the event was that within three years, with the union forces in the State of Ohio doing all they could on his behalf and to that end, this man was pardoned. His associate, who participated in the assault and who was just as guilty as the man who fired the shot, was in Cincinnati, and we knew where he was for, approximately, two weeks, but we could not get that man arrested until finally when he left the jurisdiction of the court we caused his arrest on a fugitive warrant and he was brought back again. He pleaded guilty to simple assault and was subjected to a fine.

As applied to this particular section, under these circumstances, the provisions of the bill with reference to service would absolutely deny us the relief which was sought by way of injunction. We might go further to illustrate that subject, from the records that have appeared in court cases and are matters of common knowledge from papers circulating throughout the United States.

The CHAIRMAN. It is nearly 12 o'clock, and we will have to take a recess. We can probably meet at 2 o'clock. Senator Root, the chairman of the committee, has gone to Chicago, and Senators O'Gorman and Chilton are also out of town. There are only the two of us here, but we can meet again at 2 o'clock.

Mr. MONAGHAN. I shall be glad to be here. May I be pardoned one suggestion before the gentlemen leave the room? I understand from the Senate record that a movement is on for the purpose of taking this bill from the committee. I can not argue the final paragraph of this bill at this time, because the committee is about to attend the Senate session. However, I want to say to the committee before they retire that the last paragraph of the bill on the fourth page legitimatizes the primary and secondary boycott, and consequently destroys the present common-law doctrine of conspiracy and places us in such a position that we can not prevent unlawful assemblages upon property. "Unlawful assemblage" is defined in the foregoing part of the bill, and what otherwise would be unlawful assemblage is fixed by definition in the bill. Under the fact that we are denied relief in the event of conspiracy by the doing of unlawful things by lawful means the whole doctrine of common-law conspiracy is denied us in labor disputes. Hence I wish to emphasize the im-

propriety of depriving us of full hearing upon the measure before the subject reaches the Senate for consideration.

The CHAIRMAN. We will hear from you later on that. I want to say to you gentlemen interested pro and con in this legislation that I have been unable to be present for the reason that I have had so many committee meetings conflicting with this. Day before yesterday I had three meetings, one before the committee on Porto Rico in behalf of a bill I was interested in, and the Public Lands Committee. I also had a conference on the river and harbor bill. I am chairman of the conference committee, and I have been handicapped, and even to-day my own committee, the Committee on Commerce, is sitting and I have left them to be here. That is my reason for being unable to be present. I should have been glad to have been at the hearings from the very beginning to hear everything pro and con, and I want to say to you gentlemen my absence has not been for the purpose of delaying the matter in any state or form.

Mr. GOMPERS. I certainly do not now desire to say anything in regard to the bill before the committee. First I want to say what was left unsaid by Mr. Monaghan. In regard to Mr. Valyntine, the president of the International Molders' Union, whose name was brought into these proceedings, he was completely exonerated or vindicated from any insinuation of the charge in connection with the case mentioned. In regard to the two men Mr. Monahan mentioned and over which he worked himself up into a frenzy in presenting, I will say I think there is a union man who has been guilty of some wrong, some offense, or crime. I do not know that all the members of the legal profession are immune from committing crimes, or those of any other profession or in any other walk of life. Reference has been made to a motion pending before the Senate, and I suppose we are all interested in seeing it disposed of to-day.

The difficulty has been where a move of this character has been made Members of Congress, both in the House and Senate, for years have regarded other species of legislation and other bills of such far transcendant importance over and above a measure of this character that we are at least in desperation required to see whether we can get some direct satisfaction. I am not blaming any particular Senator or Representative. I am simply saying that declarations of the great forces of our people find expression everywhere, in the national conventions of great political parties, in the national conventions of the labor organizations, in the national conventions of great civic bodies, and if they can not find some expression in legislative enactment in due time we are called upon at least to make our position known and felt, and if we can have some effective, concrete expression by the Congress of the United States on these much-mooted questions, it is our duty to do so.

Senator SUTHERLAND. Let me make this statement: The Congress of the United States has other business than this to attend to, and the members of this committee have a great many other things to attend to. I propose to give to this subject the best thought that I am capable of, and I intend before I vote upon the bill to give it as thorough consideration as I can. When I come to vote upon it I am going to vote as I think I ought to vote, and only after very thorough consideration.

So far as I am concerned I am not going to be crowded into failing to give thorough consideration to such a measure as this.

Mr. GOMPERS. I am sure there can be no dissent from that position and opinion.

The CHAIRMAN. I want to call attention to one fact. This morning three members of this committee are absent on account of the pending conventions with which you are familiar, two of our committee looking after the Democratic Convention at Baltimore and another having gone to Chicago. I have told you how I have been handicapped in not being able to appear here. I have not stayed away to delay matters, but I have been handicapped just as I have said.

Mr. GOMPERS. I have before said I have not a word to say in dissent of the attitude of mind of the members of the committee. My complaint is this: The underestimating of the valuable importance of this legislation and the subordination of it to measures that are insignificant in comparison, because this involves human liberty and common justice, and we have been trying to get the ear of our public men, in and out of Congress, to the extent that there was a declaration four years ago in the platforms of both the parties.

The CHAIRMAN. We will now take a recess until 2 o'clock p. m.

Thereupon, at 12.06 p. m., the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The subcommittee met after recess at 2 o'clock p. m.

The CHAIRMAN. You may proceed, Mr. Monaghan.

Mr. MONAGHAN. At the time of the interruption by Mr. Gompers I was discussing section 266b, and I had stated to the committee the fact that the provisions of this act make it practically impossible, or if not impossible at least impracticable, on the part of the courts to obey in all respects the strict construction of that section and satisfy the requisites of justice. It modifies in a very material respect the present procedure in similar matters in courts of equity. I desire to call the committee's attention to section 86 of the rules and practice of Federal courts in equity, which reads as follows:

SEC. 86. In drawing up decrees and orders, neither the bill, nor answer, nor other pleadings, nor any part thereof, nor the report of any master, nor any other prior proceeding, shall be recited or stated in the decree or order; but the decree and order shall begin, in substance, as follows: "This cause came on to be heard (or to be further heard, as the case may be) at this term, and was argued by counsel; and thereupon upon consideration thereof, it was ordered, adjudged, and decreed as follows, viz: [Here insert the decree or order.]"

All that is necessary under the present procedure is to incorporate in the order the things actually enjoined by the court, and reference may be had to the bill of complaint for greater particularity. To incorporate in a decree or order every possible specific act of which a union might be guilty in the court of a labor dispute would, as I have already stated, be practically impossible and would involve complication and prolixity in procedure which should always be avoided.

SEC. 266b. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

RADICAL CHARACTER OF LAST SECTION.

Preliminary to the enunciation of the doctrine which follows, the bill determines that only one class of rights shall be protected by injunction in labor disputes, to wit, property rights. It disregards all other rights held sacred by citizens of this Republic; their civil rights are not entitled to protection, their religious or political rights are not entitled to protection, simply because a labor organization with or without justification becomes involved in dispute with employees or employer. Their civil rights in such controversies unquestionably are involved, their right to quiet, their right to peace, their right to walk the streets unhampered and unhindered, their right to comfort, their right to have their children attend school without the nuisance and annoyance of having others pester them; their right to protect themselves against the invasion of their homes; their right to see that their wives should not be offended and insulted by men associated with unions, all of which are common methods employed by union strikers in connection with labor disputes.

The mere narration of the fact that civil rights of citizens can not be protected by way of injunction hereafter in the event of the passage of this bill is sufficient without further argument upon it, or without extended illustration, to convey to this committee forcefully the fact that this bill is an unjust bill and the law if passed would be a law working unjustly upon a large portion of the citizenship of this country.

The CHAIRMAN. Suppose a man wants to go to work for me, and I hire him, and a union man or striker comes and clubs him and drives him away and will not let him work for me. Is not that an invasion of his civil rights?

Mr. MONAGHAN. I think also it is an invasion of a property right.

The CHAIRMAN. Both?

Mr. MONAGHAN. I think so.

Mr. DAVENPORT. The case of the United States *v.* Adair, reported in 208 United States, says that those are not only rights of liberty, but of property.

REMEDY AGAINST PICKETING, BOYCOTT, AND CONSPIRACY DESTROYED.

Mr. MONAGHAN. The following portion of the section is, to my mind, the most vicious in character to be found in the measure. To that I wish to bring the committee's special attention. With the committee's permission I will first read the section as a whole, and comment upon those portions of it which are especially subject to criticism.

It reads as follows:

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits, or other moneys, or things of value; or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

Let us take the first phrase contained in that section of the bill:

> And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, of from recommending, advising, or persuading others by peaceful means to do so.

We heard a discussion yesterday with reference to the effect of this portion of the bill upon the railroads of the United States. We heard debated the effect of this act in relation to the interstate commerce act as well as to the Sherman Antitrust Act, and the fact that under this bill the injunction issued in the case of Debs, a report of which is found in 158 United States, entitled "In re Debs," could not have been issued. In that case the employees of the Pennsylvania Railroad Co. were advised by their officials, and sustained by the union, in refusing to carry Pullman cars. Under the Sherman Antitrust Act an action was brought and an injunction issued restraining them. The court sustaining the injunction, however, determined the questions at issue along the lines of common law, preferring to base its decision upon inherent and constitutional right rather than upon the force of any statute.

Under the proposed measure if at any time a labor union is in controversy with a railroad it may with impunity advise or persuade employees of that railroad or of any connecting railroad to discontinue their connection with that company and to violate the provisions of the interstate-commerce act as applied to common carriers. In other words, it is permitted to advise, persuade, and induce the employees of the railroad company involved, and in turn the employees of other railroad companies that may be indirectly involved by virtue of the boycott, to do an act which is a crime under the statutes of the United States. I do not intend, in view of the able discussion of the subject matter as pertains to railroads, to advert further to that phase of the situation, except to invite again the attention of the committee to the force of this objection. I wish, however, to emphasize to the committee the wide and vicious importance of this section of the bill as applied to the industries of the country. Let us take a concrete illustration. Let us suppose that the American Blower Co. is in controversy with its men and that the labor union involved saw fit to approach the locomotive engineers, the firemen, and the clerks in the employ of the various railroad companies, both local and in other States, and to advise them, induce them, and persuade them, whether peacefully or otherwise, to quit the employ of the railroad company or while in the employ of the railroad company to refuse to carry the freight of the American Blower Co. The union and its pickets under these circumstances would be inducing, advising, and permitting these men to commit a crime and would be guilty of an unlawful conspiracy under the law as it is to day and always has been in this country. But that sort of conduct under this bill is legitimatized. The concern involved primarily in the labor dispute can not secure an injunction against the terrorizing and demoralizing influence of such procedure and is left absolutely helpless under this bill to save itself from destruction.

More than this, the section of the bill to which I refer legitimatizes the primary, secondary, and tertiary boycotting by labor. Let us illustrate again. Suppose that the Allis-Chalmers Manufacturing Co. makes machinery or makes tools and it has some trouble with a labor organization. That labor organizations may with impunity, singly

or in a body, by one or by many, persuade all of the men in its employ to quit in a body in the first instance.

In the second instance they may seek out the customers of that establishment and induce and persuade, by veiled coercion or by notice of boycott, so long as they act peacefully, the employees of a concern that uses the tools manufactured by the Allis-Chalmers Co. to quit employment. They may further approach the customers of the Allis-Chalmers Co. and persuade them by numbers and by the strength of their influence and by the force of the fear of boycott, not to use the products of the Allis-Chalmers Co., and if the customer who is imprudent refuses to obey the dictates of the union, they may in turn importune his customers and use the same force, the same strength, and the same numerical terrorism upon them in the fear of boycott in order that they may ultimately force the Allis-Chalmers Co. to subscribe to the dictates of unionism.

In this connection let me emphasize further that it make no difference what the cause of the strike was, it make no difference whether it was for a just or an unjust cause, it makes no difference whether the employees of the Allis-Chalmers Co. were contented and satisfied with the conditions under which they worked, but the mere fact that a labor dispute has fomented between the Allis-Chalmers Co. and either an organization of labor or the employees of its establishment, the force of law is lost, equity relief denied, and the individual conscience substituted in place of both. The injustice of the demands of unionism have absolutely no bearing upon the proposition. It is simply a forceful and more polite statement of the phrase that the end in this event would justify the means. Even if the end be unlawful, even if the end is improper, even though, as happens in the South to-day, the employees of the concerns wish to continue without the union dominating them or attempting to dominate the free employees of an establishment in their community, all law with reference to boycotting is absolutely suspended under this act for the sole reason that a labor battle is on.

PEACEFUL PICKETING AS PART OF A CONSPIRACY.

Let us consider the next provision. It reads:

> And no such restraining order or injunction shall prohibit any person or persons * * * from assembling at or near a house or place where a person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working.

This constitutes the union definition of peaceful picketing. I might say in comment here that the majority opinion rendered by the Judiciary Committee of the House of Representatives uses expressly the term "picket" in the judgment justifying this section. There is a well-defined distinction in definition between peaceful picketing and peaceful persuasion, but no difference in effect as to what is enjoined. There is a difference as a matter of definition, but not a difference as a matter of result, and if this bill were to be construed as justifying the so-called peaceful picket, the interpretation placed upon it by the majority opinion of the Judiciary Committee of the House, then it creates an intolerable condition, and, as it is stated, it would place the industrial institutions of this country

almost absolutely under the control and dictation of unionism and some of its radical leaders. Peaceful persuasion as here applied might be defined as an attempt upon the part of one man to quietly argue with another, without force or show of force, the matters concerned in an industrial difficulty. Picketing has been defined by Webster, and his definition has been adopted by the courts, as follows:

> Picketing is a body of men, belonging to a union, sent out to watch and annoy men working in a shop not belonging to a union, or against which a strike is established.

The court, in the case of Beck *v.* The Teamsters' Union (118 Michigan), comments on that definition as follows:

> The word originally had no such meaning, but this definition is the result of what has been done under it and the common application that has been made of it.

The definition was also adopted in the typographical union strike in the case of The Chicago Typothetæ *v.* The Press Feeders, reported in 1905, which I think has a bearing upon the method and manner invoked by labor organizations in their disputes and the effect which has been found to result from the so-called peaceful picketing. It is pertinent to read briefly a section of this decision into the record.

The CHAIRMAN. That is a Supreme Court record?

Mr. MONAGHAN. The appellate jurisdiction of the State of Illinois.

> The picket system once established, the intimidation, assaults, slugging, and bloodshed followed as naturally and inevitably as night follows day. There can be no such thing as peaceful "polite and gentlemanly" picketing any more than there can be chaste "polite and gentlemanly" vulgarity, or peaceful mobbing or lawful lynching. In these days of industrial strife, the nonunion man acts on the union man as the red rag on the violent bull, and the average union man apparently needs no incentive by way of direction or authority from his fellows, so bitter has the feeling become, to promptly endeavor to exterminate the "scabs" at sight. Certainly, then, if the union man has a union behind him, he will promptly endeavor to exterminate the scab at sight. This is as well known to the public as it is to counsel. Some men can be intimidated only by being knocked down, but most peaceful and law-abiding men can be and are intimidated by an array of unfriendly men, known to be so brutal and depraved that they not only assault men, but even women and girls * * *. It is idle to talk of picketing for lawful persuasive purposes. Men do not form picket lines for the purpose of conversation and lawful persuasion. Such picketing as is established by the evidence in the case at bar is intended to annoy and intimidate, whether physical violence is resorted to or not, and is unlawful in either case. Courts should be practical. When they form an opinion from evidence it must be a practical one. They should touch the earth at every step. They have no opportunity, no license for star gazing, or for indulging in poetic fancy. In imagination and in theory, a peaceful picket line may be possible, but in fact a picket line is never peaceful. It is always a formation of actual warfare, and quite inconsistent with everything not related to force and violence. Its use is a form of unlawful coercion.

Then, in commenting upon the subject of peaceful persuasion, the Supreme Court of the State of Massachusetts has very well expressed it as follows:

> Freedom is the policy of this country. But freedom does not imply a right in one person, either alone or in combination with others, to disturb or annoy another, either directly or indirectly, in his lawful business or occupation, or to threaten him with annoyance or injury for the sake of compelling him to buy his peace.

This is precisely what this section of this bill permits.

The case of O'Neill *v.* Behenna is quoted with approval in various decisions of the United States courts which have passed on this subject and reported in 182 Pennsylvania, 236. It says:

> Even if the arguments and persuasion had been confined to lawful means, they were exerted at an improper time and were an interference with the plaintiff's rights, which made the perpetrators liable for any damage the plaintiff suffered in consequence.

The arguments, persuasion, and appeals of a hostile and demonstrative mob have a potency over men of ordinary nerve which far exceeds the limit of lawfulness. The display of force, though none is actually used, is intimidation, and is as much unlawful as violence itself.

I wish to refer to the case of the Old Dominion Steamship Company *v.* McKenna (reported in 20 Fed., 48), wherein the court said:

The procurement of workmen who are employed upon terms as to wages which are just and satisfactory, to quit work in a body for the purpose of inflicting injury and damage upon the employer, by persons who are not in his employ, and until the employer shall accede to the demands of such outside persons, which he is under no obligation to grant, constitutes in law a malicious and illegal interference with the employer's business which is actionable.

In the case of Union Pacific Railroad Company *v.* Rueff (120 Fed., 102) the court says:

The whole fallacy of the defense against this bill and the proof offered to sustain it lies in a convenient apprehension of a necessary misunderstanding of the character of that force or violence which all agree is not permitted in the conduct of a strike. It seems to be the idea of the defendants that it consists entirely of physical battery and assaults, and that if these appear in the proof, and they can be justified as they might be, on a criminal indictment or in a police court, that ends the objections, and the justified assaults and batteries will not support an injunction. The truth is that the most potential and unlawful force or violence may exist without lifting a finger against any man or uttering a word or threat against him.

Again, in the same case, the court says:

This picketing has been condemned by every court as a pretense for persuasion, but is intended for intimidation. Gentlemen never seek to compel another to listen to the art of persuasion. To stop another on the street, get in his road, follow him from one side of the street to another, pursue him wherever he goes, stand in front of his residence, is not persuasion. Intimidation can not be defined; neither can fraud be defined; but every person knows whether his acts are fraudulent, and he knows whether his acts are intimidating. And the courts, when the facts are presented, will adjudge accordingly.

Without further comment we submit the following authorities declarative of the law relative to injunction and the limit of the authority of courts in the issuance of them:

United States *v.* Agler (62 Fed. Rep., 824), Indiana. The court said:

Now this party defendant is not named, and to say now that process of injunction may not be issued to be binding upon men who are not named, or shall not be binding until they are actually served with subpœna, as they are on the civil side, on the equity side of the court, it would defeat the purpose of the law. It is not within the language of the statute itself. I think the injunction as against unknown defendants is valid and binding when the injunction order is served upon them, although they are not at the time parties to the suit. Indeed, I think an injunction that is issued against one man enjoining or restraining him, and all that give aid and comfort to him, or all that aid or abet him is valid against everybody that aids or gives countenance to the man to whom it is addressed. I do not entertain any doubt about that.

Ex parte Lennon (166 U. S., 548). The Supreme Court of the United States said:

To render a person amenable to an injunction, it is neither necessary that he should be a party to the suit in which the injunction was issued, nor to have been actually served with a copy of it, so long as he appears to have actual notice.

Conkley *v.* Russell (111 Fed., 417):

When a Federal court has issued an injunction directed against the defendants in a suit and which has been served upon them, such court has jurisdiction to punish for contempt any person whom with actual knowledge of the injunction and of its scope and effect, combines and confederates with the defendants who were enjoined for the purpose of violating and resisting it, and who in pursuance of such conspiracy, aids and assists in the commission of acts which were enjoined. This jurisdiction exists

by reason of the conspiracy to defeat the process of the court, and although such is a stranger to the suit and by reason of his citizenship could not have been made a defendant therein.

Christansen et al. *v.* People (114 Ill. App., 658):

It is not necessary that one shall be a party to the bill or officially served with the writ in order for him to be bound by the injunction, but only that he shall have actual notice of it.

Ex parte Richards (117 Fed., 658):

It is not necessary that a person be served with an injunction in order to render himself amenable to its provisions if it appears that he had reasonable notice of it.

Cent. Digest, 447 (vol. 27): Cases in all States cited.

High on Injunctions (vol. 2, ed. 4, sec. 1415, L.):

And it may be stated as a general rule that where the injunction runs against certain named defendants and against all others who are their confederates or associates or who are aiding or abetting or acting in concert with them are persons who fall within the designated class, and who have knowledge of the existence of the injunction, will be held amenable to the order of the court and will be bound thereby, even though they are not parties to the injunction suit and are not named either in the bill or in the writ. (U. S. *v.* Agler, 62 Fed., 824; U. S. *v.* Elliott, 64 Fed., 27; Conkley *v.* Russell, 111 Fed., 417; Ex parte Richards, 117 Fed., 658; Union Railway *v.* Ruef, 120 Fed., 102; In re Reese, 107 Fed., 942; U. S. *v.* Weber, 114 Fed., 950; U. S. *v.* Haggerty, 116 Fed., 510.)

Allis-Chalmers Co. *v.* Iron Molders' Union (150 Fed. 181):

A simple request to do or not to do a thing made by one or more of a body of strikers under circumstances calculated to convey a threatening intimidation with a design to hinder or obstruct workmen is unlawful intimidation and not less obnoxious than the use of physical force for the same purpose. (In re Doolittle, 23 Fed., 545; Atchison R. Co. *v.* Gee, 139 Fed., 582.)

Allis-Chalmers Co. *v.* Iron Molders' Union (150 Fed., 173):

Where peaceful picketing develops, as it generally does, in a strike, into "strong," persistent, and organized persuasion and social pressure of every description, making the condition of workmen disagreeable and intolerable, followed by hints of injury, veiled threats, offensive or abusive language, and occasional instances of assault and personal violence—all of which conditions are shown in the evidence in this case—then we have a condition condemned by the injunction, a compelling and inducing by threats, intimidation, force, and violence, the quitting of workmen, a preventing by threats, etc., workmen from entering the service, and the maintaining of picket lines in a threatening and intimidating manner.

In cases where the motive was only economic benefit of defendants, where there was no malicious intent nor violence, where the resulting injury was only incidental, peaceful persuasion held not unlawful, but in these cases the unions, strike committees, and picket captains instructed the men to use only peaceful means, not to follow workmen, to talk to them unless they were willing to talk, etc., and instructions were obeyed.

Interference is defined in the Century Dictionary:

Interposition, especially intermeddling, a clashing or collision; to act in such a way as to check or hamper the action of other persons or things.

Hillenbrand *v.* The Building Trades Council:

The practice of soliciting workmen to join a labor union, when done as in the present case, with intent to injure an employer in his business or compel him to accede to the demands of the union, is unlawful and may be restrained. Visiting employees at their homes or at their places of work in groups in pursuance of the unlawful purpose against the employer is of itself intimidation.

Hunsden *v.* Benn (123 Fed., 636). The court said:

Fellow workmen may agree together to leave at once the service of their employer, that having done so, and being no longer interested in the matter, then, notwithstanding certain dicta in cases on the subject, it does not seem clear that they are acting lawfully where they are persuading the servants of their former employer to break their contracts and leave the service. It is a matter that does not concern them any longer; it is a matter that is apparently injurious to their former employer. It seems to me that such an interference in a matter with which they have no rightful concern and which is injurious to another is unlawful. * * * They have no right to interfere with that business in any way.

Barr *v.* Essex Trades Council (53 N. Y., eq. 101). The court said:

Nor does it matter whether the wrongdoer effects his object by persuasion or by false representation. The court looks through the instrumentality or means used to the wrong perpetrated with the malicious intent and bases the right of action upon that.

Jersey Printing Co. *v.* Cassidy (53 Atl., 229):

The interest of any employer or an employee in a contract for services is properly conceded. Where defendants in combination or individually, undertake to interfere with and disrupt existing contract relations between the employer and employee it is plain that a property right is directly invaded. The effect is the same whether the means employed to cause the workman to break his contract and thus injure the employer are violence or threats of violence against the employee, or mere molestation, annoyance or persuasions.

This rule is also laid down in Luvka *v.* Clothing Cutters (77 Md., 396):

Merely to persuade a person to break his contract may or may not be wrongful in law or fact, but if the persuasion be used for the indirected purpose of injuring the plaintiff or benefiting the defendant at the expense of the plaintiff, it is a malicious act which is in law and fact a wrong act.

These principles are reaffirmed and emphasized in the following cases: London Guaranty & Accident Co. *v.* Horn (101 Ill., App., 355); Moran *v.* Dunphy (177 Mass., 492); Ex parte Richards (117 Fed., 658); Flaccus *v.* Smith (199 Pa., 128); Southern Ry. *v.* Machinists Local Union (111 Fed., 49).

Plant *v.* Woods (51 L. R. A., 344):

The purpose of these defendants was to force the plaintiff to join the defendant association, and to that end they injured the plaintiff in their business and molested and disturbed them in their efforts to work at their trade. It is true they committed no acts of personal violence, or of physical injury to property; although they threatened to do something which might reasonably be expected to lead to such results, * * *. The necessity that the plaintiff should join this association is not so great nor is its relation to the rights of the defendants as compared with the right of the plaintiff to be free from molestation, such as to bring the acts of the defendant under the shelter the principles of trade competition. Such acts are without justification, and therefore * * *.

Plant *v.* Woods (176 Mass., 492; 51 L. R. A., 339):

The law protects a man from interference even though he is hired merely from day to day. Intentional and willful interference with a man pursuing his trade or occupation in life by direct acts that make a direct and proximate, and in its nature effective, interference with such pursuit of trade or occupation has uniformly been held unlawful. Such acts and threats as were found against the defendants in this case amounts to force and intimidation within the meaning of the common law and of our statutes; and there need not be fear of personal physical injury from violence, but a moral and material intimidation that works upon the mind and would move even against his will an ordinary man is sufficient.

O'Neil *v.* Behanna (38 L. R. A., 385–386). The court said:

When the new men were followed and importuned not to work from their point of embarkation to their destination and there met by the strikers in considerable numbers and followed to their lodging places, all the time being pressed and entreated to return and called "scabs" and "blacklegs" and sometimes surrounded and the effort made to pull them away, and unfriendly (at least) atmosphere about everywhere, it must be admitted that there was something more than mere argument and persuasion and the orderly and legitimate conduct of a strike. This was certainly serious annoyance and well calculated to intimidate and coerce, and that effect was apparently produced on more than one occasion. * * * The strikers and their counsel seem to think that the former could do anything to attain their ends short of actual physical violence. This is a most serious misconception. The "arguments" and "persuasion" and "appeal" of a hostile and demonstrative mob have a potency over men of ordinary nerve which far exceeds the limits of lawfulness. * * * It is further urged that the strikers only exercised their right to talk to the new men to persuade them not to go to work. There was no such right. These men were there presumably under contract with the plaintiff, and certainly in search of work, if not actually under pay. They were not at leisure and their time whether their own or their employer's, could not be lawfully taken up and their progress interfered with by these or any other outsiders on any pretense or under any claim of rights to argue or persuade them to break their contract.

Casey *v.* Typographical Union (45 Fed., 135). In this case no violence or even threats of violence were used by strikers, but strikers were enjoined and their actions held unlawful, because, as the court said:

It was an organized conspiracy to force complainant to yield his right to select his own workmen, and submit himself to the control of the union, and allow it to regulate prices for him, and to determine whom he should employ and whom discharge. In other words, it was, and is, an organized body to force printers to come into the union, or to be driven from their calling for want of employment, and to make the destruction of the complainant's business the penalty for his refusing to surrender to the union.

Vegelahn *v.* Guntner (167 Mass., 92; 35 L. R. A., 722). A patrol by strikers in front of a factory, used in combination with social pressure, threats of personal injury, or unlawful harm, and persuasion, to interfere with the rights of both employer and employee, since it is a means of intimidating, indirectly to the employer and directly to persons actually employed or seeking to be employed by him.

The motive or purpose of strikers to secure better wages for themselves by compelling the acceptance of their schedule of wages does not justify maintaining a patrol in front of a factory as a means of carrying out their conspiracy.

A conspiracy of strikers to prevent persons from entering employment or continuing therein, even if they are not under any binding contract, by maintaining a patrol in front of the employer's premises and by means of threats and intimidation is unlawful.

Eureka Foundry Co. *v.* Lepker (48 O. L. B., 400):

Language is none the less a threat which used alone appears harmless but in connection with tone of voice, gestures, or surrounding circumstances implies a threat. Any course of conduct upon the part of others which deprives or substantially affects the freedom of mind of workmen in reaching a decision to remain in the employment or the freedom of will in carrying that decision into execution is an unlawful interference with the right to the owner of the business.

The remarks of Justice Brewer, of the United States Supreme Court, on "Peaceful persuasion" are oft and often cited in cases of this character. When laborers gather round and say to those who seek employment that they had better not and when that advice is supplemented by assault on one who disregards it, everyone knows that something more than advice is intended. It is coercion—force. It is the effort of the many by mere weight of numbers to compel the one to do their bidding; it is a proceeding outside of the law, in defiance of the law, and in spirit and effect an attempt to strip from one that which of right belongs to him—the full and undisturbed use of his own.

As showing the general consensus of judicial opinion as deduced from a long list of cases in courts of last resort, the following summary from the recent edition of the American and English Encyclopedia of Law, 18 volumes, pages 84–85:

> But to be it is not necessary that the intimidation should be directed against the employer or that there should be any overt act of violence or any direct threat by word of mouth. If the members of a labor union by previous agreement or concerted action congregate at or near the works of an employer with the intention of intimidating the employees of the establishment by displaying opposition to the course pursued by such employers, in continuing at work, such combination is unlawful, and all persons engaged therein are guilty of conspiracy. But the means employed by a labor union in order to be illegal need not be carried to the length of violence or intimidation. Acts creating a nuisance intended to annoy and disturb an employer, his workmen, or customers in the enjoyment of their several rights, are illegal, and those who by preconcert perform these acts are guilty of criminal conspiracy.

I mention these authorities at random from data which have been collected by me, all of which tend to establish the fact that in all strikes, so-called peaceful picketing is merely preliminary to the assaults and intolerable nuisances which follow. The peaceful picket, so termed, can not be disassociated from his more belligerent associate so long as their joint acts are directed toward the accomplishment of a common design. The courts of this country have universally adopted the principle that "there is no act so innocent of itself as not to be subject to restraint when it is made a part of an unlawful design." As has well been said in the case of Commonwealth *v.* Hunt (4 Metcalf, Mass.):

> The law abhors subterfuges. It lays aside the covering and looks to the actual facts beneath. In the language of Chief Justice Shaw, the law is not to be hoodwinked by colorable pretenses. It looks at truth and reality through whatever disguises it may assume.

So it is with the peaceful picket and with the boycott, and where the intent of strikers is to cause injury to an employer for the purpose of establishing some ulterior benefit to themselves, and as a means to the accomplishment of their ends they make use of the peaceful picket and boycott, in cooperation and collaboration with assaults and violence by others united with them in a common purpose, then the peaceful picket, so called, and the so-termed peaceful boycott should be amenable to restraint in equity. There is no case to be found in any of the decisions wherein "peaceful picketing," when unaccompanied by the circumstance of unlawful object, or when disconnected with assault and violence, has been made the subject of restraint by any court. The evil of this measure is that it attempts a disassociation of the peaceful picket from an unlawful object and permits the exercise of his office, even though used as one of the means to make effective an unlawful conspiracy, in which coercion and violence in some measure play their part.

Turning to the next phrase of the bill, we find the following:

> No such injunction or restraining order shall prohibit any person or persons * * * from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do.

In those words we have expressly the making legitimate of the so-called boycott, a boycott not alone of labor but a boycott of product as well. On the subject of peaceful persuasion for the purpose of accomplishing results, I desire to call the committee's atten-

tion to the strike of the typographical union occurring in very recent years. The method invoked by the typographical union was a method devised no doubt by those who conceived the present provisions of this bill to be the then law. They were advised, and for a time carried their advice successfully to fruition, not to assault a single man who was engaged in their places upon the work. Instead of assault they substituted the method of peaceful persuasion justified in this bill. They had members of their union, ranging all the way from 20 to 100 in number, stationed at various places before the plants which were struck. As the employees left the establishment those that were assigned to a particular employee followed him to his home. No single word was spoken to him to begin with, but they simply followed him a distance of a few feet behind. As he reached his home it was customary for them to follow him as far as his doorstep and ask him to join the union and leave his present employment. There was no threat in the sense of a desire upon their part to attack. Upon going into his house he might look out of his front window and find these men walking up and down in front of his residence.

In the morning when he left his house to return to work the strikers were in front of his house and followed him back to work. At night, if he went upon the street, they were with him and behind him. If he stepped into a store for the purpose of making a purchase, those men were with him and they were with him as long as could be, away into the night. Similar methods of persuasion were employed with the grocer and with the men with whom he dealt, seeking to have them stop furnishing him with the necessities of life. This so-called method of peaceful persuasion continued until it was absolutely intolerable, and the employers had difficulty in restraining their men from attacking the strikers who followed them on the street. In like manner their children were followed to school and annoyed in one way and another. The nonunion workmen were pointed out as they walked on the street, but they persisted in continuing in their employment. The union finding this method unsuccessful, did what invariably follows in all strikes—they began their system of assaults and abuse. Such is the situation in every strike of any moment that is instituted. The assault, the violence, the bloodshed, does not begin the first day after the strike commences. Persuasion is used for a time, and on the first day it is peaceful, but as the places of the strikers are filled by other men and the strikers and their associates congregate in numbers of from 1 to 100, and sometimes 500 and 1,000, in front of the struck plant, it is an invitation, in the event of the employers obtaining sufficient employees to run the plant, for the assaults, and violence which invariably follow.

Is it not better, not only in justice, but likewise as a matter of policy, to have the injunction issued at a time when the mere presence of these men in numbers constitutes an intimidation rather than to wait until the assaults and murders and mutilation of property and destruction of business follows?

More than that, the law in this country has always recognized from the beginning down to the present time the right of a man to protect himself by injunction from a boycott, whether that boycott is a boycott of labor or whether a boycott with reference to product and material.

Senator SUTHERLAND. Let me ask you a question for my own information. The language is "or from recommending, advising, or persuading others, by peaceful means, so to do." That is to say, to patronize. Would those words mean anything more than an appeal to the judgment? If there was a show of force or such circumstances as appealed to the fears or terrorized a man, would that be called recommending, advising, or persuading others?

Mr. MONAGHAN. I think it could, under the provisions of this bill. The bill expressly permits assemblage in numbers at the struck plant or at the homes of employees, even though such show of numerical strength itself constitutes coercion. Moreover, it is not possible to describe in detail the point beyond which peaceful persuasion becomes coercion. What may terrify one man may not affect another, but the law is presumed to protect all equally, the strong as well as the timid, and the terms of the last section of the bill are clearly open to a construction which permits coercion by any means short of violence.

In the case of the Bucks' Stove & Range Co. versus Gompers, the character of persuasion permitted under the terms of this bill was discussed and the conduct described specifically discountenanced. Even though coercion is not exercised in the sense of physical violence, a hostile array of men demanding that a certain thing be done, though peaceful in words, still carries a force which is calculated to deprive the person approached from that freedom of mind and will which he is entitled to exercise under the law.

I was about to illustrate my argument by an excerpt from the recent and somewhat famed Bucks' Stove & Range Co. case, as recently reported from the United States courts. In that case the court made a finding as to what acts were committed properly subject to equity jurisdiction. Those acts could not have been enjoined in the face of such a law as this measure contemplates. The court said:

Time and space render it impracticable to even mention all the instances in which such action has resulted in the loss of customers to plaintiff. In some instances, these customers were under contract with the plaintiff, as in the case of the Strauss-Miller Co., of Cleveland, Ohio, set forth in paragraph 19 of the bill, which company abandoned its previous relations with the plaintiff under threat of a total loss of patronage of more than 60,000 persons, members of the United Trades and Labor Council of Cuyahoga, County, Ohio, which is one of the city central labor unions of the defendant, the American Federation of Labor. Another typical instance is disclosed by the affidavit of Ovid B. Sailors, secretary and treasurer of a firm doing business in South Bend, Ind., which had been a customer of plaintiff for several years. He makes oath that on October 3, 1907, he was notified by a committee of No. 330 Metal Polishers' Local Union of South Bend, to discontinue the sale and advertising of plaintiff's stoves and ranges, and that thereafter, on October 18, his firm was published in the local labor papers, by means of a large display advertisement, as having been placed on the unfair list, and that on the following day a circular appeared under the signature of local Metal Polisher's Union No. 330 stating that "The outfitting house of Sailor Bros. has been placed on the unfair list on account of their continuing to handle the Buck stoves and ranges. * * * All members and friends of organized labor are asked to read and heed the above." In the case of Alonzo Miller, a customer of plaintiff at Stanton, Ill., the local union not only threatened to boycott Miller but voted to fine any miner who bought a range or heater of him which he had purchased from plaintiff. Another witness, who had been a sales manager of plaintiff for 11 years, swears that he has seen and talked with 70 customers of plaintiff who had been visited by committees of labor unions of St. Louis and warned not to handle plaintiff's stoves and ranges under the penalty of their being boycotted.

Now, then, all the unions need do in order to act with impunity is to call upon dealers with the company against which a strike operates, individually or in numbers, and request, with the force of the

union behind their insistence, that the dealers discontinue to use the products of the "struck" establishment. If they do not comply with such demand, the associated unions and their two millions of members may publish the fact in their paper and circulate them as unfair institutions throughout the whole of the United States, their customers may in turn be approached and boycotted, and the conspiracy to ruin or coerce allowed free rein. Activity is peaceful in that there is no violence. Request may be construed to be mere advice, but that advice has behind it the force and effect of cooperation, and a conspiracy on the part of these men to injure the plant originally struck, and in turn to injure such others as do not assist in the perpetration and establishment of the boycott upon that plant.

Senator SUTHERLAND. The point of my inquiry was whether or not that could be regarded as peaceful. Take the case you illustrated where men who were at work were followed home, and that was repeated day after day, or take a case where there is a great show of numbers, having the effect of terrorizing the men instead of appealing to their judgment, instead of presenting the argument to the man for him to determine for himself whether or not he ought to leave the employment, and he is induced by that show of force or by the other means you speak of, an appeal to his fears. Would that be regarded as peaceful?

Mr. MONAGHAN. I think it is subject to that construction, when the whole section is considered together. Referring to another portion of the last section of this bill it answers the question very definitely and beyond all controversy, in my judgment. I specify the very last sentence of the bill, which is as follows:

> No such injunction or restraining order shall prohibit any person or persons from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

The ingenuous form of that phrasing would appear absolutely harmless, but when unnecessary language is gleaned from it. It is as follows:

> And no such restraining order shall prohibit any persons from doing any act or thing which might lawfully be done in the absence of such dispute by any one person.

If that construction is the correct one, and I can not possibly see from the verbiage what other construction can be placed upon it, then if what is done lawfully by one is still lawful if done by many, the whole law of conspiracy is abrogated in industrial disputes and any number of men may do in an industrial dispute what may be done by one man. Therefore, carrying the illustration out, if one man followed another to his home on different days, or if one man approached another and asked him to cooperate in the design of this organization, it might be construed as peaceful; but suppose 50 men did that same thing, surrounded him and talked to him. The act is lawful if done by one, hence is lawful if done by any number and not subject to injunction. The law at the present time tells us that persuasion by many in concert is a form of coercion and intimidation which removes the freedom of the will; but this bill provides that if the act is lawful if done by one in the absence of such a dispute, it is lawful if done by many in the presence of a labor dispute, so that no injunction can intervene to protect rights thus invaded.

Senator SUTHERLAND. I am not asking questions as indicating any opinion that I may have, because I haven't any, but eliminating that,

then what would you think as to whether or not those things I have spoken of would be recommending, advising and persuading others by peaceful means?

Mr. MONAGHAN. I think that as the Senator puts the question to me the section would be construed to the effect that the means were peaceful so long as there was no violence.

Senator SUTHERLAND. Would it be peaceful if, as a matter of fact, the workman whom it was sought to persuade from going to work or from continuing in his work was surrounded by a large number of men, and if done in such a way as to appeal to his fears, not to advise his judgment, not to leave him free to determine whether or not the best interests of himself or his class would be furthered by his leaving work and aiding the strikers in their efforts, but by such a show of numbers or by such other circumstance as would terrorize him or induce him to quit work because he feared, and not because his judgment was satisfied? Would that be peaceful?

Mr. MONAGHAN. I think it would be peaceful within the definition of "peaceful" as established by this bill in its provisions. The interpretation placed upon the question as reported by the minority of the Judiciary Committee of the House was certainly along the lines indicated.

Eliminating the last sentence of the bill, as the Senator suggests, what would be the meaning of the earlier provision? What necessity exists for their enactment at all? As the law stands at the present time it covers that situation fully and completely. It permits the strike, it permits persuasion if done in a lawful manner and for a lawful purpose. And if the purpose of the bill is not to enlarge the rights of strikers as at present defined, and it does not, then the section has no purpose, discussion is idle, and Congress is engaged in the empty task of enacting unnecessary legislation.

Senator SUTHERLAND. I was endeavoring not to ascertain whether a change in the law was desired, but to ascertain now what the meaning of those words is. No injunction would be issued in terms forbidding a man or a number of men from recommending, advising, or persuading others by peaceful means to do those things, would it?

Mr. MONAGHAN. Not in terms; no.

Senator SUTHERLAND. It would be an injunction which simply said that you, the defendant, are enjoined from recommending, advising, or persuading such and such men or any men in the employ of the plaintiff to quit work by peaceful means. Such an injunction would not be justified, would it, under the present conditions?

Mr. DAVENPORT. Under the Sherman Act it would not be justified.

Senator SUTHERLAND. Well, under ordinary labor disputes?

Mr. MONAGHAN. It would not be justified, unless the intent and purpose of the strikers in the organization and development of their combination was lawful. They could be enjoined under the present law from conspiring to induce or persuade by even peaceful means employees to break their contracts, or from inducing apprentices to quit their employment, grounded in contract, or from inducing or persuading peacefully railway employees to refuse to handle the goods of a struck concern, in violation of the interstate-commerce act. Generally speaking, however, and with the reservation named, in ordinary controversies not involving such conditions, I think the gentleman has stated the law as it is to-day.

THE BOYCOTT IS PRACTICALLY LEGITIMATIZED IN THIS BILL.

What has been said of picketing applies with equal force to the peaceful boycott. Since the ultimate design being one of injury to the business of the "struck" plant, an illegal conspiracy is borne, and under it all acts done in furtherance of its success are tainted by the general design. In business affairs the very combination of men to destroy a competitor is amenable to law and subject to injunction. The severity of the Sherman Antitrust Act is made applicable to every phase of business endeavor, including the monopoly of unionism and the boycott of unions. This bill seeks to relieve labor in its disputes, so that its acts may be legalized, whereas with all other men in all other disputes a court of equity might intervene. At common law, independent of statute, the boycott is stigmatized and looked upon as the most cruel form of persecution that a body of men can impose upon an individual. But through this measure the proponents of it seek to remove the ban of criminality or unlawfulness which would attach under any other conditions and thus receive the approval and encouragement of the Congress of the United States.

Boycott has been defined, in the case of Toledo Railway Company *v.* Pennsylvania Railroad Company (54 Fed., 740), as "a combination of several persons to cause a loss to a third person by causing others against their will to withhold from him their beneficial business intercourse through threats that unless a compliance with that demand is made the persons forming the combination will cause loss to him."

In Thomas *v.* Cincinnati Railroad Co. (62 Fed., 819) we meet the following language:

> Boycotts, though unaccompanied by violence or intimidation, have been pronounced unlawful in every State of the United States where the question has arisen, unless in Minnesota.

Since that decision Minnesota has passed upon the question, and there, too, the above principle was applied. (Ertz *v.* Produce Exchange, 79 Minn., 140.)

In the case of Beck *v.* Teamsters' Union (118 Mich.) the lower court permitted the peaceful boycott, but the Supreme Court in its review said:

> The decree of the lower court permits a "boycott by peaceful means" and the ruining of complainant's business by threats or any other means short of violence. If the term "boycott," as is claimed, has no authoritative meaning, then the decree is indefinite, and the defendants have no guide except that they must refrain from actual violence or threats of violence. The authorities do not sustain this proposition. If these defendants had threatened complainant's teamsters that unless they ceased to work for them and joined the union, they had the power and would use it to induce all merchants not to sell them any goods by which they might support themselves and families and had carried out this threat by issuing boycotting circulars and notifying merchants personally, by their committees, that they must cease to sell goods to these men, there would have been no act or threat of violence; but would the boycott or conspiracy have been lawful? May these powerful organizations thus trample with impunity upon the right of every citizen to buy and sell his goods or labor as he chooses? This is not a question of competition, but rather an attempt to stifle competition. It is a question of the right to exist. If there be no redress from such wrongs, then the Government is impotent indeed.

Against such decisions the voice of the advocates of this measure is now raised. They forget the rights of others and seek to be placed upon a privileged pedestal, wherein they may ruin business institutions as they please, by any means short of actual violence, ignoring

the fact that the same character of acts participated in by any other body of men would be promptly restrained by the courts. By the exercise of the powerful weapon placed in the hands of unionism by this measure the industries of the country would be at the mercy of the labor trust and of those who happen for the moment to be its leaders. The danger, not alone to capital, but to labor itself, can not be too greatly emphasized.

The next provision is as follows:

> No such restraining order or injunction shall prohibit any person or persons * * * from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value.

In such an event a labor union engaged in controversy with an individual manufacturer is justified not only in persuading and inducing in a peaceful manner the employees of other institutions which have beneficial business intercourse with the foundry struck to leave this work, but in addition is permitted, without the possibility of equity interference, to offer or give bribes of money or things of value to the employees of a customer who continues to make use of the products of the struck foundry in order to injure dealer or customer who refuses to join in the boycott; men who are members of labor organizations may approach the clerks or the employees of an establishment that is making use of the products of the struck foundry and offer them bribes of money or things of value for the purpose of inducing them to quit work for that employer, or for the purpose of doing any other thing that might ordinarily assist them in that strike, provided no violence or threat of violence is used. The provision even enters into the transportation of goods by freight and into the matter of inducement by bribe on the part of labor organizations to procure the employees of interstate carriers to refuse to handle the freight belonging to the struck institution.

The next phrase of section 266c is as follows:

> And no such restraining order or injunction shall prohibit any person or persons * * * from peacefully assembling in any place in a lawful manner and for lawful purposes.

What "lawful purposes" are, is modified by what goes before. It is not now considered lawful for a body of men to assemble upon the premises of a struck manufacturing establishment nor in the immediate vicinity of a struck manufacturing establishment for the purpose of persuading the men in that establishment to quit their work. But under this bill the men of the union may assemble at any time and any place in a lawful manner for lawful purposes. So long as it is lawful, under the foregoing provisions of the act, for any person or persons to come to or be at the home of an employee of a struck establishment or at his place of work, so long also is a court of equity inhibited from engaging any members from collecting at a man's home or before the establishment at which he works for the purpose of carrying out the objects of the strike. The mere statement of the purpose of this restriction is the most forceful argument that can be used against it.

The last phrase in the bill contains its most damning clause—

> And no such restraining order or injunction shall prohibit any person or persons * * * from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

By this provision the law of conspiracy in relation to restraint in equity is practically nullified in labor disputes. The present law of conspiracy is too well understood to merit any extensive discussion before this body. The courts both in England and in the United States have asserted that there is no act so innocent as to be free from criminality if it attaches to an unlawful purpose. It is in a convenient misapprehension of this principle that affords excuse for the proposed law. The means adopted by labor organizations for the accomplishment of their ends are exercised by virtue of the understanding and conspiracy that exists between them. Assault and violence are as much a part of picketing as membership in labor organizations entitles a man to be called a union man.

How are we to distinguish, under this bill, when such a condition as the following presents itself? A number of men are named as pickets to do their work in a peaceful manner on the first day. When I say "peaceful" I mean peaceful in the sense of no assaults and no violence. They follow the nonunion workman to his home, they suggest to him that he join the union, they tell him it will be better for himself and his family to follow this advice, a veiled threat, but their actions are orderly. This conduct continues on the next day and the next, but on the third day a vicious assault occurs; the men who participated in the picketing do not actively engage in the assault. On the day after 500 men assemble at the plant, a riot occurs, and every time thereafter the nonunion workmen are approached by the pickets, every time they are followed on the streets, I do not care whether the number is one, two, or more, once after the violence begins every act in connection with the conspiracy, however peaceful it may be, participates in the illegal character of the whole conspiracy and should be properly subject to writ of injunction.

I defy any man to point out to me any case decided by any Federal court, whether of inferior or superior jurisdiction, wherein so-called peaceful persuasion was enjoined, where that peaceful persuasion was not shown to be a part of a conspiracy to assault, to murder, or to dynamite, or to do other things of like character commonly used by striking unionists to render their operations effective.

After a conspiracy has once been inaugurated, with the object in view of compelling acquiescence with their demands, and reaches a point where violence is perpetrated as a means to make the strike effective, the law does not and can not in justice disassociate from that violence or riot or annoyance the means by which the assaults which follow are made possible. Men do not commonly follow others upon the streets for the purpose of obtaining and communicating information or of peaceful persuasion. The words of the section say:

> From attending at or near a house or place where any person resides or works or carries on business or happens to be for the purpose of peacefully obtaining or communicating information.

What information may the picket give? Under this bill he could with impunity communicate to the man who is selected to make the assault the residence of the person upon whom the assault is to be committed. He peacefully follows him and peacefully communicates, but, notwithstanding that fact, he is a part of the general conspiracy and, being a part of that general conspiracy, his act, which is otherwise innocent, participates in that conspiracy and becomes of itself a

crime. You can not disassociate generally the situation of the so-called peaceful picketing and the peaceful boycott from the things which invariably and inevitably accompany the so-called picket and the boycott. As has been quoted by me from a decision of the court to this committee in the course of this argument, the violence, intimidation, and threats follow as surely as night follows day. The labor organizations of this country do not want the opportunity to merely stand upon the street and peacefully persuade men singly or in pairs in a friendly way. Why, gentlemen, you and I know that this bill is not intended or directed to any such purpose, but that its clear object is to suspend the law of conspiracy and to so nullify its effect that acts may be participated in which inevitably produce disorder in violation of sacred rights.

THE PROVISIONS OF THE BILL ARE UNCONSTITUTIONAL.

The purpose of this bill is so obviously unjust and the demand for such legislation so lacking in excuse that we might rest content with a mere analysis of its purport without recourse to a discussion of its constitutionality. I wish, however, before concluding to call the attention of the committee to the fact of its unconstitutionality, first, as a direct interference by Congress with the inherent power of the judicial branch of the Government; second, as a direct attempt to deprive citizens of fundamental rights without due process of law.

This bill is not designed to regulate the issuance of injunctions alone, but to deprive the equitable division of our Federal common-law courts of their power to prevent the commission of wrongs where no adequate remedy at law exists. The Constitution of the United States, section 1, Article III, says:

> The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.

This judicial power is the same, whether vested in the Supreme Court of the United States or in the inferior courts. The Constitution creates the power and Congress is authorized to ordain and establish inferior courts, to which this power flows. The power, however, is identical whether found in the Supreme Court or in the circuit courts of the United States. The same act created the power as to each. The language, the circumstances, the purpose, and the constitutional qualities with reference to each are the same. The second section of Article III of the Constitution provides that the judicial power shall "extend to all cases in law and equity arising under this Constitution." Once the jurisdiction is named and defined and the courts created or ordained, no distinction exists as to the source of the power which flows into them, whether court is a circuit court or the Supreme Court of the United States. Jurisdiction may be fixed by Congress, but the judicial power can not be changed without a violation of the Constitution. It is true there have been quoted certain dicta which seem to indicate the contrary, but a close analysis of the cases commonly used for the purpose of establishing the contrary of our contention will demonstrate that they can not be properly considered authority.

It will be conceded that the judicial power with which the constitution concerns itself is that which obtained in the high courts of

chancery in England. These courts unquestionably possessed and exercised authority to restrain the character of acts named in this bill as not hereafter to be made the subject of restraint.

In the case of State of Pennsylvania *v.* The Wheeling, etc., Bridge Co. et al. (13 How., 563) the Supreme Court of the United States held:

> In exercising this jurisdiction the courts of the Union are not limited by the chancery system adopted by any State, and they exercise their functions in a State where no court of chancery has been established. The usages of the high court of chancery in England, whenever the jurisdiction is exercised, govern the proceedings. This may be said to be the common law of chancery, and since the organization of the Government it has been observed.

In the case of Smith *v.* Aykell (3 Atkins Chancery Rept., 566) the Lord Chancellor issued a restraining order without notice and without hearing, in accordance with the then well-settled procedure of the high court of chancery. In reference to Eden on Injunctions (1821), and Adams's Equity (1845), the proof shows that such was the common practice in their time. The more recent law enunciated in this country, chiefly from State decisions, emphasizes the charcter of the power reposed in our courts by the constitution. The constitution of Connecticut, Article V, provides that—

> The judicial power of the State shall be vested in a supreme court of errors, a superior court, and such inferior courts as the general assembly shall from time to time ordain and establish.

The case of Brown *v.* O'Connor (36 Conn., 446) construes this section of the constitution of this State, and says:

> It is obvious from this view of these provisions that the general assembly have no power or authority to organize courts or appoint judges by virtue of general legislative power conferred upon them, and that their authority to do this is a special authority, derived from Article V of the constitution alone; and that the judicial power is not conferred upon the general assembly to vest by force of the constitution the courts when organized pursuant to the special provisions of that article.

Continuing, the court says:

> It is conceded, as it well may be, that the legislature had the power to constitute this police court under the provisions of section 1 of the fifth article. There is nowhere in that instrument any limitation in respect to the number or character of the inferior courts which they may establish. It was therefore competent for them to provide for the organization of the court in question, and to define the jurisdiction it should possess, and when so constituted, the judicial power of the State vested in it by force of the constitution to the extent of the jurisdiction so defined.

The difficulty in determining the question of the authority of Congress or a legislature over the courts ordained by them is founded in a failure to distinguish between jurisdiction and judicial power. This distinction is clearly set forth in the case of Jackson *v.* Nimmo (71 Tenn., 608), where the court says:

> In view of this, we think it clear, from the first and eighth sections of the article from which we have quoted, that the preservation of these courts, with their distinctive features, modes of procedure and organism, substantially as independent and separate agencies for the exercise of these judicial powers was intended, the courts to remain intact. But the matter of their jurisdiction is not so fixed, nor was it so intended. This was to remain as then until changed by the legislature. To what extent the jurisdiction thus left under control of the legislature may be changed we could not definitely determine. The existence, however, of these courts as parts of the judicial power of the Government is beyond the power of the legislature to destroy. The courts are to be preserved intact, but what shall be the matter over which they shall exercise their powers, subject to certain limitations involved in other clauses of the constitution, is left to legislative discretion.

In the case of the Board of Commissioners of Vigo County *v.* Stout et al. (136 Ind., 58) the following language is found:

> Courts are an integral part of the Government, and entirely independent, deriving their powers directly from the constitution, in so far as such powers are not inherent in the very nature of the judiciary. A court of general jurisdiction, whether named in the constitution or established in pursuance of the provisions of the constitution, can not be directed, controlled, or impeded in its functions by any of the other departments of the Government. The security of human rights and the safety of free institutions require the absolute integrity and freedom of action of courts.

Callahan *v.* Judd et al. (23 Wis., 350) states the law as follows:

> It may well be that the legislature may deprive the circuit courts of original jurisdiction in actions for the foreclosure of mortagages. It is unnecessary to determine whether it could or not. But it is quite certain that this clause contains no authority for it, while leaving those courts jurisdiction of this class of actions, to attempt to withdraw from them an acknowledged part of the judicial power and vest it in the jury.

Hence, it must be that while the legislature might narrow the jurisdiction of the court, still so long as the court retained jurisdiction by virtue of the legislative act establishing it, it is beyond the power of the legislature to impair the judicial power.

In the case of the American Insurance Co. *v.* Candor (1 Pet., 511), where the question of the difference between territorial courts and district courts was in issue, Mr. Justice Marshall said:

> These courts (territorial courts) are not constitutional courts in which the judicial power conferred by the Constitution or the General Government can be deposited. They are incapable of receiving it. The jurisdiction with which they are invested is not part of that judicial power which is defined in Article III of the Constitution, but is confined by Congress to the execution of those general powers which that body possesses over the courts of the United States.

We invite the further attention of the committee to the following decisions equally applicable to the question: In re Debs (158 U. S.), Kansas *v.* Colorado (206 U. S., 31), Brown *v.* Kalamazoo Circuit Judge (Mich.), In re McCown (139 N. C., 95), Bradley *v.* State of Georgia (111 Ga., 168), Carter *v.* West Virginia (96 Va., 791), Smith *v.* Speed (55 L. R. A., 402 Okla.), and Hale *v.* The State of Ohio (55 Ohio State Reporter, 210).

The necessary conclusion from a careful reading of these cases must be that the judicial power once vested in the courts can not be so changed by legislative act as is contemplated in the measure under consideration.

DUE PROCESS OF LAW.

Under and by virtue of the Constitution of the United States no citizen can be deprived of life, liberty, or property without due process of law. When by proper procedure a litigant presents to a Federal court in equity facts showing that irreparable harm is threatened and that no adequate remedy at law exists "due process of law" entitles him to the issuance without notice and hearing of a restraining order to the end that his property may be preserved. The denial of this right is a denial of due process of law. In the bill before us Congress would step in and by its act declare that under no circumstances shall the citizen have his constitutional right to due process of law in labor controversies where his property is affected and his rights violated by a certain classification of actions on the part of aggressive unionism. There can be no reasonable question but that the bill before us attempts to make constitutional rights

and remedies dependent for their use and protection upon the peculiar kind of controversy or dispute in which they are involved and not upon the very nature of the right itself. There can be no serious question but that it undertakes to take from one class of citizens rights to which they and every other class of citizens are and have been entitled to. It can not be doubted but that the bill attempts to arbitrarily exempt one class of citizens, to wit, union men in labor disputes, from the uniform operation of the civil laws of the United States.

No one will contend but that under the provisions of the fourteenth amendment of the Constitution providing that no State shall deprive "any person of life, liberty, or property without due process of law nor deny to any person within its jurisdiction equal protection of the laws" would make the legislation contemplated clearly unconstitutional if a State attempted to pass it. If such a bill under such circumstances became a law, it unquestionably would be class legislation. It would become the duty of the State courts and of the courts of the United States to stamp out such legislation as impossible in the face of the Constitution. The question of class legislation of the character here involved has not been before the Supreme Court for precise determination, but from the decisions already rendered it is clear that such legislation is impossible from the standpoint of its constitutionality whether enacted by Congress or by the legislature of a State.

The Congress of the United States under the fifth amendment is clearly bound by the principles of right and has no power to deprive any citizen of equal protection of the law.

The Supreme Court of the United States in the case of Dent *v.* West Virginia (129 U. S., 114) said:

> As we have said on more than one occasion, it may be difficult, if not impossible, to give to the terms "due process of law" a definition which will embrace every permissible exertion of power affecting private rights and exclude such as are forbidden. They come to us from the law of England, from which country our jurisprudence is, to a great extent, derived, and their requirement was there designed to secure the subject against the arbitrary action of the Crown and place him under the protection of the law. They were deemed to be equivalent to the "law of the land." In this country the requirement is intended to have a similar effect against legislative power—that is, to secure the citizen against any arbitrary deprivation of his rights, whether relating to his life, his liberty, or his property. Legislation must necessarily vary with the different objects upon which it is designed to operate. It is sufficient for the purposes of this case to say that legislation is not open to the charge of depriving one of his rights without due process of law, if it be general in its operation upon the subject to which it relates and is enforceable in the usual modes established in the administration of government with respect to kindred matters—that is, by process of proceedings adapted to the nature of the case. The great purpose of the requirement is to exclude everything that is arbitrary and capricious in legislation affecting the rights of the citizen.

Thomas M. Cooley, in his edition of Story on the Constitution, reaches the following conclusion:

> And the same may be said of the like distinctions under laws establishing public schools, preemption laws, exemption laws, and the like; the rules which exclude persons from their benefits must be uniform and not partial; the individual is always entitled to the benefits of the general laws which govern society.

In the case of Budd *v.* The State (3 Humphries, 483) Judge Reese, in rendering the opinion of the court, said:

> If the felony were enacted with regard to the clerks, servants, and agents of a merchant to deter them from embezzlement and false entries, would it be imagined for a

moment that it would be regarded as the "law of the land" and consistent with the Bill of Rights? If the felony affected only all the clerks of all the merchants of Nashville or of Davidson County or of middle Tennessee, would that in either case be the "law of the land"? It is believed none would so contend. And why not? Simply because the law of the land is a rule alike embracing and equally affecting all persons in general or all persons who exist or may come into the like state and circumstances. A partial law, on the contrary, embraces only a portion of those persons who exist in the same state and are surrounded by like circumstances. If peculiar felonies, affecting all the people or certain of the public officers of East Tennessee only, were held to be the "law of the land" it would be difficult to say for what object that clause was inserted in the Bill of Rights. One of its objects has been stated in various adjudications in our State to have been to protect the feeble and the obnoxious from the injury and the injustice of the strong and the powerful and, in general, to protect minorities from the wrongful action of the majorities. This being its scope and purpose, would it not interdict the legislature from passing such an act as is last above referred to, for instance, making certain acts of nonfeasance or malfeasance of the register of the western district, although a public officer, a felony, leaving the register of middle Tennessee, east Tennessee, etc., unaffected by it? Certainly it would. And why? Because the law would not treat similarly all who were in like circumstances. It would therefore be partial and, of course, not the law of the land.

Webster's argument in the Dartmouth College case says:

By the law of the land is most clearly intended the general law—a law which hears before it condemns, which proceeds upon inquiry and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rule which governs society. As to the general words from Magna Charta, says another eminent jurist, after volumes spoken and written with a view to their exposition, the good sense of mankind has at length settled down to this: That they were intended to secure the individual from the arbitrary exercise of the powers of government unrestrained by the established principles of private right and distributive justice. * * * The provision that no State "shall deny to any person within its jurisdiction the equal protection of the laws" would not seem to call for much remark. Unquestionably every person—all being now freemen—is entitled to the equal protection of the laws without any such express declaration. But with the power in Congress to enforce this provision by "appropriate legislation" it becomes a matter of no little importance to determine in what consists the equal protection of the laws and what amounts to a denial thereof.

It is to be observed, first, that this clause of its own force neither confers rights nor gives privileges; its sole office is to insure impartial legal protection to such as under the laws may exist. It is a formal declaration of the great principle that has been justly said to pervade and animate the whole spirit of our constitution of government, that all are equal before the law. (Sec. 1960.)

The very purpose of our Government as set forth in the Declaration which gave it birth contains language which tells us more forcefully than the decisions of any court that it was never the purpose of its founders that legislation should be enacted by Congress which might deprive the Federal courts of their judicial power, or to make laws or to enact legislation which would deprive any citizen of equal protection of the law.

For these reasons we insist with this body that the legislation, outside the question of policy, is beyond the power of Congress to enact.

Incident to the general subject, and in order that the committee may have ready reference to the most recent decisions of the Federal courts in defining the law of injunctions. and the very evident necessity of maintaining that law of injunction in its integrity, as now interpreted and defined, we wish to suggest the following cases: In re Debs (158 U. S., 564); Louewe *v.* Lauder (208 U. S., 206); Gompers *v.* Bucks Stove & Range Co. (219 U. S.. 340).

Let me in conclusion emphasize to the committee that this organization represented by me, and the industries of this country, are not before this committee at this time asking for special privileges.

We ask only that we be treated just exactly in the same way as any citizen should be treated in litigation and in disputes which are subjected to equity for scrutiny and determination. The labor organizations of the country at this time stand before the committee asking for special privileges. If these special privileges were granted to labor organizations, and if this bill were passed, would the special privileges which they ask be carefully guarded by them in the sense of not being abused?

I can not understand, Mr. Chairman, how organized labor as represented by the American Federation of Labor can nerve itself to come before Congress with a record which bleeds in the face of that American public and ask for the privileges printed in this bill. I do not intend to abuse the record or to tire the patience of this committee by an extended enumeration, but I do invite its careful attention to the compilation of lawless conduct presented by me in book form (as well as other instances to be filed [see Exhibit H]), done in connection with strikes by the Iron Molders' Union alone during the period stated by me in the early part of this argument. Four hundred affidavits upon which the injunctions were asked for and granted in that period of four years are set forth in that pamphlet. It shows that the instances of peaceful persuasion, so termed peaceful picketing and quiet boycott are not enumerated except in a general way, but does establish the intimate relationship between them and the murder, assault, violence, and riot which cooperated with them. A policy of lawlessness, it has been, and the organizations which promote such anarchy can not escape responsibility nor can their officials. It appears in that record by affidavit that the international president of one of our largest unions instructed an official connected with the establishment struck that, pending negotiations for a settlement of the strike, lawless activity would cease, that the dynamite operations would be withheld, that no guns would be fired, and that the pickets would be "called off."

If he had not been behind the policy of disorder it would not follow that on the next day the pickets ceased their activity and up to the time the agreement failed there were no assaults, there was no violence, and there were no murders committed. Union labor and its present leaders can not escape responsibility, and in the presence of the gentleman who interrupted me to-day I want to say that when unions are shown by record to gouge men's eyes out in Chicago, to shoot them in the streets of Cincinnati, to break their arms and legs in New York; when, in fine, in every strike of moment throughout the country on money advanced by labor unions men become law violators and property destroyers and their acts are defended by labor leaders, it scarcely seems possible that this committee will lend encouragement to the preliminary steps which make such a condition possible. There has been adopted by many labor men a policy of violence through the past few years. So menacing, so vicious it was that the country stood aghast when it read the record of what happened at the Llewellen Iron Works, the Los Angeles Times, and the hundred instances of dynamite and wholesale murder done with union approval and financial assistance. Members and associates of the American Federation were directly involved and prosecuted and convicted. Who paid the men that defended the men who plead guilty to these outrages? The American Federation of Labor. Still, that Federation has the te-

merity to come before this body and ask for the special privilege of unlawful assembly in order that it may continue its policy of destruction. I do not think that the right-minded American workman really stands for the object behind this bill.

I am not here for the purpose of defaming unionism. Unionism, if rightly conducted, is good for the employers and employees, but when it is led by men so ruthless, so disregardful of the rights of others, it is unsafe and unjust to create a privileged class of lawbreakers and deprive employers of judicial protection.

I say to you gentlemen that many of the strikes called in this country are not called by the large body of the union workmen. They are not the ones who want to make strikes easier. If you look over the record of cases of strikes of workmen in this country, any increase in wage would not restore to their pockets the money they have lost. A comparatively few men, the radical element, the element that likes to foster trouble, almost invariably controls in the meetings of labor and in disputes order the strike. It is not an uncommon thing for a comparatively small percentage of the membership to vote upon the strike and the others to stay away. Others again do not participate in acts of violence that are perpetrated. There are many men in organizations when a strike is on who do not attend, but the professional strong-arm men who are paid, the men who can be brought together for the purpose of using force and the influence and strength of their numbers to bring about destruction and coerce employers and their customers are utilized in connection with strike conflict. I say to you on behalf of the industries of the country, if this bill is passed you place them under the domination and dictation of the radical element of unionism. If we can not secure an injunction under all the hardships attached to this bill, if we can not procure an effective restraining order, and if the provisions of this bill are made the law, what hope have we for the future? The injunction presupposes we have no adequate remedy at law, and when we seek a court of equity we must be denied protection. There is one thing you surely do by enacting this bill. You deny equity, you compel force to resist force, and tie the hands of courts to quell disorder. The boycott, the picket, the strike in operation as it is encouraged here would mean the destruction of industry and the annihilation of the business or their complete submission to the fanaticism of labor leaders.

DETROIT, *June 2, 1912.*

CHARLES P. BLYTH, Esq.,
Assistant Clerk Senate Committee on Judiciary, Washington, D. C.

DEAR SIR: I am expressing you under separate cover under this date certain injunctions, affidavits, and pleadings especially pertinent to litigation and strikes in which the molders' union has been concerned with members of the National Founders' Association during the past several years. To some extent activities of the metal polishers' union are included, and also some instances of strikes by the iron molders' union against establishments not members of our association. The matters contained in the above inclosure, though quite extensive, by no means embrace all the union activities of the iron molders' union during that time, but are illustrative of the general condition obtaining. I have already mailed you a statement containing excerpts from affidavits and court records for the years 1904, 1905, 1906, and 1907. Additional data relating to that period and brought up to date will be found in the inclosures being mailed, which contain several thousand pages of typewritten and printed matter.

The information requested by the committee are as follows: First, the furnishing of copies of a compilation made by the National Founders' Association entitled "A

Policy of Lawlessness," including a statement by excerpts from court records of the record of assault, murder, coercion, and intimidation occurring in strikes of the iron molders' union during 1904, 1905, 1906, and 1907. This has been already mailed, as heretofore indicated; second, copies of restraining orders issued in cases during the above period and subsequent thereto; third, data with reference to the causes which brought about these strikes; fourth, rules of labor organizations as to apprentices; fifth, record in Cincinnati cases, with special reference to dynamiting outrages.

It is to be noted that the details of litigation sent concurrently herewith by express comprise certain State court pleadings as well as pleadings filed and injunctions issued by Federal courts. It will appear also that a few of the injunctions relate to organizations other than the iron molders' union and with which the writer personally and not as counsel for the National Founders' Association has been concerned.

It has been impossible within this period to obtain copies of all affidavits and all pleadings, court orders, and hearings in the various cases instituted on behalf of members of the National Founders' Association, but such as we have thus far been able to secure are being expressed at this time. It is not to be assumed that the records in each case as sent are complete. Many of the evidences by affidavit and otherwise of assault, intimidation, and murder, and dynamiting have not yet been copied, and within the time at the disposal of the committee, and within which it might be expected that hearings would be concluded, it is impossible to collect all data. I have secured in some of the cases complete records and in others portions of the pleadings, so that there will be at least sufficient before the committee to clearly demonstrate the character of conspiracy in which labor unionism throughout the country becomes involved in its disputes, and to establish to the committee that the picketing as part of such a conspiracy becomes of itself unlawful and properly subject to injunctive relief.

It may be impracticable to print in the record of the hearings all the matters contained in the records which I am sending, but I wish to have the committee know that an effort has been made to convey to it such information as is promptly procurable, and to offer to secure such additional information on any pertinent subject which to the committee may appear desirable.

In the event of it not being the desire of the committee that the details of the 35 cases filed by me be published, that at all events this communication be made a part of the record with my statement, in order that it may appear upon the record that the request of the committee has been complied with, and that the information requested is on file with the committee.

In answer to the request of the committee for data relative to union regulation of apprentices, it is clear that such regulation has become a part of the policy of unionism throughout the country, to such an extent as to seriously retard the work of manufacturing establishments and to contribute substantially to the attempt of labor unionism to monopolize the labor market. I inclose herewith a paper marked "Exhibit," wherein are compiled the regulations of 15 major labor organizations relative to apprentices. The original printed constitutions and by-laws of these unions have been mailed under separate cover, including that of the International Molders' Union of North America. You may retain the inclosed exhibit, but after the printed constitutions have been fully considered, I wish you would kindly preserve them and mail them to me.

Assuring your committee through you of my desire to be of any further possible assistance, I am,

Yours, very truly,

GEORGE F. MONAGHAN,
General Counsel National Founders' Association.

EXHIBIT A.

STATE OF MICHIGAN, *County of Wayne, ss:*

J. G. Hoffman, of the city of Detroit, county of Wayne, State of Michigan, being duly sworn, deposes and says that he compiled from the original papers filed in the causes related in the book, A Policy of Lawlessness, hereto attached, upon the date set forth therein—that the statement of affidavits and court action taken in connection with injunctions and other court procedure in labor disputes compiled by him, as aforesaid, is a correct and fair compilation and abridgement of the same.

Further deponent saith not.

J. G. HOFFMAN.

Subscribed and sworn to before me this 3d day of July, A. D. 1912.

ERNEST A. O'BRIEN,
Notary Public, Wayne County, Mich.

My commission expires October 3, 1913.

A POLICY OF LAWLESSNESS—PARTIAL RECORD OF RIOT, ASSAULT, MURDER, COERCION, AND INTIMIDATION OCCURRING IN STRIKES OF THE IRON MOLDERS' UNION DURING 1904, 1905, 1906, AND 1907.

[Supplement to report of O. P. Briggs, president of National Founders' Association, November, 1908.]

PREFACE.

This record of violence perpetrated by the union of iron molders during strikes of recent years is presented herewith, as supplemental to the report of retiring President O. P. Briggs, to the convention of the National Founders' Association, November, 1908.

In presenting this supplement we ask the reader to bear in mind the following:

The National Founders' Association was organized for the distinct purpose of endeavoring to establish an amicable agreement between molder and employer through the medium of the molders' union.

To this end seven years of energetic, painstaking, able, and conscientious work were devoted by the most representative class of employers of foundry labor in the United States and Canada.

Over 2,500 conferences were held between the molders' union or its representatives and the National Founders' Association and its representatives.

An experience covering seven years' work for this purpose proved conclusively that the union of iron molders did not at any time propose to recede an iota from its determination to enforce its strictly closed-shop constitution and by-laws

The issues upon which disagreement finally prevailed between the molders' union and the National Founders' Association are not disputed, the one issue outweighing all other issues combined being that of the limitation of apprentices, which means: Shall the American boy be granted an opportunity to learn a trade or not?

Ample proof of this statement is furnished in an article prepared by an official of the union and John R. Commons, political economist, printed in Bulletin No. 62, United States Department of Labor, in which the following quotation from a report of William H. Sylvis, a former president of the union, will be found on page 163:

"The apprentice question is one that has given us more trouble than all others combined. I have stated in my previous reports that I did not believe our present law was based upon principles of justice, either to ourselves or our employers."

In the same bulletin, on page 162, will be found the following statement for which the same official of the molders' union is the authority:

"There is probably no trade-union in the country which has made greater efforts than the Iron Molders' Union of North America to establish and maintain a ratio of apprentices. From the time of its birth it has by constitutional provisions endeavored to limit the number of apprentices, and numerous strikes have taken place to enforce the ratio it had adopted."

Turning to page 163 of this bulletin, we find the following by the same authority:

"It is impossible to discover the reasons which led the molders to adopt this proportion of apprentices to journeymen, though there are ample indications that the result was not reached through the collection of statistics."

From the report of the president of the iron molders' union to its last convention, July, 1907, page 5, the following is taken as referring to the negotiations between the union and the National Founders' Association, in the attempt to establish a uniform agreement. This illustrates clearly the points upon which issue was joined.

"The main questions that had been at issue, and which were finally presented in concrete form by the N. F. A., applied to the limitation of output, the ratio of apprentices, the employment of handy men, the operation of molding machines, and the minimum wage rate. It was the foundry men's desire that if a general or national form of agreement was consummated it should provide for the unrestricted employment of apprentices and handy men, should leave the method of operating molding machines optional with the foundry men, and should further provide that a percentage of molders employed in each foundry should be allowed to work for a definite rate below the minimum. To these propositions we were unable to agree."

As indicating the fallacy of the impression at present entertained in the public mind that all strikes are the result of disputes as to wages, we print from the official union journal, page 355, May, 1906, the following:

"For the last two years the organization as a whole has been marking time, and the large and costly strikes supported had not been entered into for the purpose of securing higher wages or shorter hours, but with the object of resisting the foundry men's efforts to take away from the molders a portion of the conditions they had already secured."

Among the "conditions" referred to in the last quotation the apprentice question "outweighs" all others, according to the admissions previously quoted from the article printed by authority of the union in Bulletin 62.

For nearly 40 years this apprentice question outweighed all other questions and in 1906 the limitations imposed by this union had caused such a dearth of molders in this country that further tolerance on the part of the proprietors could not be permitted.

On May 1, 1906, the molders' union undertook to stampede the country and entered into the most gigantic strike ever witnessed in a mechanical line on this continent.

The issues at this time had narrowed down to the question of apprentices. Had the iron molders' union been willing to withdraw its unlawful limitations of apprentices no strike would have followed.

This the union would not do, but entered into an attempt to stampede the foundry proprietors, in which efforts it failed completely, the open shop being established by the proprietors in 99 per cent of the cases involved.

This strike, which was the culmination of many years' effort to establish a closed shop, cost the molders of this country in the neighborhood of $6,000,000. According to the official reports of the union itself, it spent $3.50 for every dollar expended by the proprietors in these strikes.

Public opinion and numerous politicians often claim the proprietors do not exercise proper judgment in refusing to deal with these so-called labor leaders. It is incredible that the proprietors of foundries on this continent should be open to such an accusation, in view of their years of effort with union officials to adjust these disputes upon a fair, business like basis, and yet this same iron molders' union, through its affiliations with the American Federation of Labor, is to this day appealing to lawmakers throughout the country for class legislation to protect it in its closed-shop undertakings and unlawful methods employed to enforce it.

The foundrymen desire only fair play, accepting the judgment of disinterested third parties, and have therefore adopted the precedents already established by the Anthracite Coal Strike Commission of 1902, which are as follows:

"It is adjudged and awarded: That no person shall be refused employment or in any way discriminated against on account of membership or nonmembership in any labor organization, and that there shall be no discrimination against or interference with any employee who is not a member of any labor organization by members of such organization." (Art. IX, Bull. No. 46.)

These findings should appeal to every citizen interested in the perpetuity of American citizenship as being right, equitable, and just.

The publishers of this compilation desire it definitely understood that this record of lawlessness is only a partial one. Innumerable examples of the manner in which striking union iron molders have wantonly disregarded the statute law as well as the law of humanity might be added, but it has been deemed advisable not to extend the list further for the present.

March 1, 1909.

A POLICY OF LAWLESSNESS.

Sentimentalists, nonemployers, publicists, and the large portion of our body politic not in frequent touch with the American Federation of Labor unionist of the present day and his policy in forcing himself to the front, have little or no conception of the riotous and lawless practices which are part and parcel of this policy. Union leaders have been loud in their statements—none more so than those of the iron molders—that these methods were viewed by them with disdain and disapproval, yet the overt acts committed by striking members of the molders' union have continued and in each case defense in the courts of law has been provided at the expense of the union.

UTICA, N. Y.

Presented herewith are extracts from affidavits of violence and coercion in many cities, beginning with Utica, N. Y., where a strike of iron molders was begun in March, 1904. Examples of the lawlessness of the striking molders in this city are shown as introductory to the volume of affidavits and statements printed herewith, indicating the universal practice of assaulting and maltreating nonunion workmen, for the protection of whom it was necessary to appeal to the courts of justice for writs of injunction.

Joseph Holland testified on July 16, 1904, that four or five strikers came upon him from behind a railroad car calling out "You scab, we want to talk to you." He was seized from behind and struck on the head, mouth and nose, and an attempt made to break his ankle, beaten into unconsciousness, laid across the railroad track over which railroad trains frequently passed and was rescued by employees of the railroad company. He was taken to a hospital and confined there for a long period. The boycott in this city was so intense the physician in attendance was compelled to call his

own carriage to convey the injured man to the hospital. (Supreme court, Oneida County, N. Y.)

Frank Ersig testified that he was constantly subjected to vile abuse by pickets near the foundry, was frequently called by vile and unprintable epithets. July 16, 1904, in the evening he was followed to his boarding place; the strikers remained about calling him to come out and saying: "We will break your head when we get a chance." (Supreme court, Oneida County, N. Y.)

Milton Hutchinson testified he was compelled to go in a roundabout way to and from his work, and in passing the union pickets near the shop they called him vile and abusive names. (Supreme court, Oneida County, N. Y.)

Arthur E. McClintock testified that on May 12, 1904, he was threatened by members of the iron molders' union, called "scab" and numerous vile and unprintable names, at the same time threatening to "knock his head off." He was followed along the street and jostled, and on pushing his opponent, one Bosley, to one side, was arrested without any right of law and afterwards acquitted. (Supreme court, Oneida County, N. Y.)

Felix Michaels testified that he was threatened many times, called "scab" and other vile and obscene names, and threatened with the words, "We will kill you yet." July 16, 1904, he was called profane and obscene names by one Macowski and threatened, if he continued in the employ of the company, they (the strikers) would kill him. On the same day he was assaulted by one May, who struck him on the head, but escaped further injury by running away. (Supreme court, Oneida County, N. Y.)

William Michaels testified on July 25, 1904, that he had been villified and insulted many times by strikers by them calling him profane and obscene names and threatened: "We will kill you yet." On July 18, 1904, Macowski and others of the strikers attempted to kick and strike him, and he was told by them that they "would get him yet, would do him up." (Supreme court, Oneida County, N. Y.)

Edward Craig testified on July 25, 1904, that he was told by one Hanauer, member of the union, also a striker, that when Rathaupt, a nonunion iron molder, left Utica he would "leave in a box," and that the union "was getting mad, were going to do up all the scabs." (Supreme court, Oneida County, N. Y.)

George Oswell testified on July 25, 1904, that he had been often subjected to abuse by strikers who followed along the street calling him vile and unprintable names. (Supreme court, Oneida County, N. Y.)

Harry Edgecombe testified on July 25, 1904, that he had been villified and abused by strikers until he feared for his life. On July 16, 1904, near the foundry, he was jeered and hooted at by the pickets and called vile and unprintable epithets and "scab." (Supreme court, Oneida county, N. Y.)

John O'Brien testified that for a month prior to July 25, 1904, 25 or more of the strikers picketed the shop in which he worked, and constantly interfered with himself and other employees, and at their instigation was arrested without cause and afterwards released. He was traced from one boarding place to another, and the keepers thereof were frightened into refusing to harbor him. He was called profane, vile, and abusive names, and threatened by these words: "We will get you yet; we will put you out of business; we will break your head." (Supreme court, Oneida County, N. Y.)

James McIntyre testified that from June 2 to July 25, 1904, he had been followed about the streets of Utica by strikers and called vile, abusive, and filthy names. He was told that if he did not quit the employ of the company he would get "punched." On July 16, 1904, going from his home to work, he was assaulted by two strikers; one grabbed and held him, while the other kicked him. A crowd of citizens rescued him from further injury. Later, three union strikers came upon him and told him to "get out of town if you don't want to get hurt." He ran to the house of a friend, pursued by the strikers, who attempted to get into the house, and only desisted when it appeared that the inmates had a pistol to defend themselves. There were 16 of the strikers at this encounter. On July 22 one of the strikers told him "a much stronger attack will be made by the union in the very near future." (Supreme court, Oneida County, N. Y.)

Charles F. Meyers testified that on July 16, 1904, in the evening, near the foundry entrance, he was approached by 25 to 30 strikers who were vehement and cursed him, telling him "You will have to leave town." He requested to be allowed to depart in peace. He was struck in the face by an unknown striker and knocked to the ground and beaten; from the effects of the assault he was rendered unconscious and bleeding, and was afterwards removed to St. Luke's Hospital, and was confined there a long period, during which for two days his life was despaired of. (Supreme court, Oneida County, N. Y.)

Michael Mueller testified on July 25, 1904, that he had been approached by one May and one Macowski, who called him "scab" and other vile names. He was

threatened to be killed and his body thrown in the canal. On July 7 and 9, 1904, he was followed about the streets by strikers, who called him vile and profane names, and was told by them that his head would be broken if he continued to work for the company. On July 15, 1904, he was told by strikers to keep away from the foundry and warned: "If we find you after this working for the company we will kill you." (Supreme court, Oneida County, N. Y.)

Frank Hodapp testified that on Sunday, July 17, 1904, he was approached by four strikers, who said, "There is the scabby," accompanied by a foul term. He ran to his boarding place, followed by the strikers, who continued rioting outside of the boarding house until 2 o'clock in the morning. The landlady and her son were threatened with boycott if they harbored scab workmen longer. (Supreme court, Oneida County, N. Y.)

William Campbell testified that on July 11, 1904, he was stopped by two union strikers and told that he and other employees were (names unprintable), and told "they would get it." Other times he was told, "You do not know when you are apt to have your head knocked off, going round here the way you are; you ought to quit, and if you do not quit your head will be knocked off." On July 16, 1904, he was grabbed and held by one of the strikers, who said, "Hold on, you have been scabbing it." Other strikers gathered round and said, "Let's throw him in the canal." And he was struck one blow by an unknown striker. He ran to the company's office and a policeman took him home, followed by strikers, who called him vile names and told him if he came back to work he would be thrown in the canal. There were 20 strikers in this crowd. On July 22, 1904, he was threatened by the strikers with bodily harm if he did not desist from working. (Supreme court, Oneida County, N. Y.)

Lewis E. Clark testified that he was called "scab," profane and scurrilous names frequently. On July 23, 1904, he was set upon by five or six strikers and thrown to the ground and beaten about the head and face and body until his face was covered with blood and he was left on the ground. A policeman was near, who said, after Clark got up, "Been getting your trimmings, have you? They were not union men who hit you, were they?" Clark said to the policeman, "It is easy to see which side you are on," and the policeman then threatened to throw him in the canal. The policeman made no attempt to assist him or search for his assailants. (Supreme court, Oneida County, N. Y.)

James Collins testified that in June, 1904, on his way to the foundry, one Hanauer, a striking member of the union, stopped him and asked him to "quit his job." Hanauer then became angry, called a police officer and said, "Arrest this man." The officer took him to a saloon and placed handcuffs on him. Collins protested and showed letters of identification without avail. Hanauer telephoned a police magistrate, and Collins was taken before him, and in passing Bagg's Hotel a number of pickets called out, "There goes one of the 'scabs.'" This was accompanied by a scurrilous term. The magistrate forthwith released him without punishment. Later, two members of the strikers, while near the foundry, called out, "There goes a man we will get." On July 18, 1904, was threatened with bodily harm if he did not quit work. (Supreme court, Oneida County, N. Y.)

Herman Berger testified on July 23, 1904, that he was offered $10 and a ticket to Chicago if he would quit work and his life threatened if he did not. Messages were sent to him by Hanauer, threatening if he did not quit he would be killed. On July 16, 1904, he was struck by a stone thrown by an unknown man; there was a body of strikers near who jeered at him and called him an unprintable name and "scab," and told him if he knew what was good for his health he would quit work. Later he was met by several strikers, one of whom struck him in the eye, knocked him to the ground and then another jumped on him. Macowski, a striking molder, told him on another occasion that if he did not quit work he intended to kill him. A crowd of over 50 strikers was near by at this time. On various other occasions he was called "scab," and his safety constantly threatened. (Supreme court, Oneida County, N. Y.)

Joseph Lewandowski testified that in June and July, 1904, he was maltreated, insulted, and called monstrously obscene names, hooted at by strikers and jeered while passing through the streets. Once he was held by one of the strikers, who held aloft in his hand a "billie" intending to strike, but he broke away and ran, thus escaping harm. He was threatened with being killed and his body thrown in the canal if he did not quit work. (Supreme court, Oneida County, N. Y.)

John H. Fondeheide testified that on July 8, 1904, he was met by Hanauer, a striking molder, on the bridge near the foundry, who said to him: "You had better quit work, you and the rest of them, or you will be dumped in the canal for a swim." A striker threatened him that "his head would be broken if he did not quit work." On July 16, 1904, he met a mob of 25 of the strikers, 5 of whom he recognized, and was pursued by them to the house of one Mergell, who protected him with a pistol. He

was threatened at that time by said crowd that they would kill him the first opportunity that offered. (Supreme court, Oneida County, N. Y.)

Henry Brennaman, July 16, 1904, testified that he was met near the foundry, as he was leaving, by a crowd of 20 strikers, who tried to prevent him from passing. He was shoved against the fence and struck in the face. Finally there was a crowd of 50 strikers surrounding him and calling him monstrously vile and obscene names and threatening to kill him. He was struck several times on the lip and in the eye; was told that if he did not leave town the next day he would be killed. (Supreme court, Oneida County, N. Y.)

Peter Mueller testified that he met Hanauer, a striking molder, on the bridge near the foundry, with another striker, who told him to quit work or be thrown in the canal. On July 8, 1904, he was called "scab" and other vile unprintable names; threatened to punch his head; and with further words: "We will break his head if he don't quit work; there he goes; we will get him next." (Supreme court, Oneida County, N. Y.)

John W. Stagg testified that on July 15, 1904, Hanauer and Gleason, striking molders, accompanied by 12 or more other strikers, abused him vilely. Hanauer approached in threatening manner, cursing, and said: "I will have you yet; if you don't quit work, I will do you up." During the month he was called vile and unprintable names frequently by strikers. Upon the day following an attack was made by members of the union, as a result of which two nonunion men were seriously wounded and taken to a hospital. So fearful had affiant become of his own life and person that he had quit employ of the company. (Supreme court, Oneida County, N. Y.)

Frank Cheifari testified that on July 8, 1904, while on the canal bridge, he was grabbed by strikers, some of whom called out: "Hold the dago; throw him in the canal." On July 19, 1904, a striker invited him out and told him he would beat him up if he did not quit work. Other strikers told him if he did not quit work they would dump him in the canal. He broke away from the strikers at the bridge and ran to the shop, followed by the crowd of strikers, who called him vile and unprintable names. On another occasion he was told: "We will knock your head off; you will leave now or you will not be able to leave," accompanying the threat with an indecent epithet. (Supreme court, Oneida County, N. Y.)

Otto Sittinger testified that on at least 25 different occasions he was called "scab" and other vile and unprintable names. He was approached by strikers whose fists were closed and threatening and who called out: "There goes the scab; we will get him yet." (Supreme court, Oneida County, N. Y.)

D. E. Krotts testified that on various occasions he was called "scab." Strikers tried to get his boarding keeper to refuse to shelter him, using threats. Leaving or coming to his work he never was alone, fearing for his life. (Supreme court, Oneida County, N. Y.)

Charles Watts testified that on July 16, 1904, Hanauer, a striker, struck him with a "billy," a dangerous weapon. At noon that day, near the shop, strikers said to him: "There will be some beating done to-night," and called him a "scabby" and other vile names and said: "The hoboes and bums will be done up to-night." (Supreme court, Oneida County, N. Y.)

Richard Brotherton testified that on July 8, 1904, he was approached by strikers near the shop and called "scab" and other vile and unprintable names and threatened to be thrown in the canal if he did not quit work. On July 15, 1904, he was called: "Bastard, we will get you; you ought to be dead and will be" by strikers near the shop. His landlady was threatened with boycott if she continued boarding him, and her husband's business (barber) was threatened also. (Supreme court, Oneida County, N. Y.)

Frank Reid testified that on July 16, 1904, he was surrounded by strikers who called him "scab" and other scurrilous and profane names and said to him threateningly: "We will get you." (Supreme court, Oneida County, N. Y.)

Carl Seib testified July 2, 1904, that during that week he was threatened by one Hanauer, a striking molder. Hanauer also told him that when Rathaupt left town he "would leave town in a box." Later he was approached by strikers, offered a union card and transportation home if he would quit work. (Supreme court, Oneida County, N. Y.)

Rain Hutchinson testified that in July, 1904, he was called "scab" and other vile and profane names and threatened thus: "We will kill you yet." His boarding house was picketed and the keeper routed out and requested to turn the nonunion boarders out. (Supreme court, Oneida County, N. Y.)

Albert J. Browne, physician, St. Luke's Hospital, testified that on July 16, 1904, he found Charles Meyers suffering with an incised wound 3 inches long back of ear,

contused wound on nose and bleeding, and finally hemorrhage of the brain, later unconscious and pulse sank to 48, and remained in that state two days. Harry Brenneman had a blow under the right eye, which nearly closed it. Joseph Holland, face a mass of bruises, both eyes closed, face badly swollen, bleeding profusely, clothes saturated with blood, ball of right eye injured, bruise on right shoulder, ankle swollen, and bruise on side. (Supreme court, Oneida County, N. Y.)

Absence of police protection and fear of boarding-house keepers rendered it necessary to board the entire body of workmen within the plant for nearly an entire season.

CINCINNATI, OHIO.

Immediately following the Utica strike, which was a complete failure on the part of the union, came serious strikes of iron molders at many other points and then Cincinnati, Ohio.

The reign of terror established at Cincinnati upon the inauguration of this strike by the iron molders' union in its home city and under the immediate supervision of its national officers was considered equivalent to the most inhuman species of guerrilla warfare ever recorded.

Extracts from affidavits and statements of the iniquities of molder union lawlessness in this city are presented herewith:

Nonunion molders went to work in the Eureka Foundry Co. shop immediately after the union men had struck. September 22, 1904, over 500 strikers and sympathizers gathered around the foundry at closing hour. Eight nonunion men, when leaving the foundry and while accompanied by small squad of police, with members of the firm, were stoned and greeted with cries of "scab"; one man was shot, and all, including the police, were attacked and driven to cover by the mob. In this riot one man was shot in right leg, another cut over right eye by a bowlder and taken to city hospital, one man's jaw was broken, and five police officers cut and bruised by stones and bricks. The foundry buildings were brickbatted until hardly a pane of glass remained.

F. L. Rauhausen, an apprentice boy employed by the Eureka Foundry Co., confessed under oath that he had been hired by the president of iron molders' union in his office at Cincinnati to dynamite molds in the foundry at the price of $20 each. This confession was subsequently corroborated by the boy's father. Case brought before court and boy fined. Rauhausen first entered a plea of not guilty. At the trial this plea was retracted and one of guilty entered, apparently in order that the evidence might not be used against officers of the molders' union involved. Rauhausen was fined $400, which was paid by the molders' union attorney of record.

October 8, 1904, Samuel Weakley, a nonunion molder working in Greenwald factory, Cincinnati, was murdered in cold blood by William Friend, alias Patton, a union iron molder. Patton and two others met Weakley on a prominent thoroughfare of Cincinnati and shot him through the abdomen. Weakley died at the hospital after identifying his assailant. Over 600 talesmen were drawn for jury service during the trial of Patton, who changed his plea from "not guilty" to "guilty" and was sentenced to 20 years in the Columbus penitentiary. After serving less than three years of this sentence Patton was paroled through the efforts of the officers of the iron molders' union, who had sustained all the expenses of his defense upon the charge of murder.

During progress of strike, and after much lawlessness by striking union molders, Valentine, president of molders' union, informed representative of proprietors that if nonunion iron molders were started at work in the struck foundries of Cincinnati "murder would be done." President of molders' union agreed to stop all picketing and lawlessness during a truce declared for purposes of attempting a settlement of strike. All slugging, rioting, picketing and other forms of violence ceased at once in accordance with this promise. Immediately following failure to reach an adjustment of strike, former vicious tactics of the striking unionists were revived and, in accordance with the statement of the president of the union that "murder would be done," murder did occur within a few days. President of molders' union was particularly boastful of his ability to quiet mob violence and maintain law and order in Cincinnati during above-mentioned truce.

Joseph Hood stated that he was held up on the Kentucky-Cincinnati bridge by strikers, who threatened to kill him if he continued in the employ of the company. Hood had a contract with the company for one year at $3 per day. Strikers called at his residence; told his wife that if she did not prevent her husband from working he would be killed. (Superior court, Cincinnati, Ohio.)

Thomas Marsh testified that on September 21, 1904, he was crossing the Cincinnati bridge and saw the strikers take hold of Hood, and one of them drew back his arm as if to strike Hood. (Superior court, Cincinnati, Ohio.)

Michael J. Kane testified that on September 24, 1904, with six policemen he escorted the company's workmen to their homes. Strikers followed, increasing in numbers to

forty, some demanding the workmen be searched for concealed weapons, which was done, and none found. The actions of the mob were calculated to terrify the workmen. One of them said to affiant, "You won't have that cap on very long." (Superior court, Cincinnati, Ohio.)

Louis Becker testified that on September 24, 1904, about 100 strikers were picketng and followed him along the street to the works, making demonstrations of hostility, and for the safety of the nonunion men he was escorting he took them into the city fire-engine house. Later, at the shop entrance, there was a crowd of 50 strikers also making hostile demonstrations. (Superior court, Cincinnati, Ohio.)

Robert Wood testified that on July 25, 1905, on going home from work he was followed by five pickets, strikers, who separated, compelling him to pass between them. One said, "I want to talk to you," at the same time taking hold of him. A policeman came into view, then these assailants desisted. (Superior court, Cincinnati, Ohio.)

Alvey Sigler testified that on July 19, 1905, on his way home, he was followed by a policeman and two strikers, and at their instigation was searched for concealed weapons. None were found on him. (Superior court, Cincinnati, Ohio.)

Joseph La Fleur testified that on July 19, 1905, he was stopped by a striker, taken hold of and searched for concealed weapons. This was done in the presence of a police officer. No weapons were found. (Superior court, Cincinnati, Ohio.)

Thomas Spencer testified that in July, 1905, on his way home from work, was stopped and assaulted by one Cavanaugh, alias Bassett, who struck him with his fist and held in his other hand a knife, the blade of which was 4 inches long. (Superior court, Cincinnati, Ohio.)

William Mergell testified that in July, 1905, on his way home from work he was stopped by a striker and assaulted and thrown to the sidewalk and an attempt made to kick him. (Superior court, Cincinnati, Ohio.)

William Mergell testified that in July, 1905, on his way home from work passed four strikers, who compelled him to pass between them. One said, "I will get him." Another said, "No, let me get him; he is my meat; I will talk to him." They followed him and asked, "How long are you going to stay here?" (Superior court, Cincinnati, Ohio.)

Joseph Shaw testified that on July 25, 1905, on his way home from work he was stopped by a striker, who said, "Christ, are you here yet?" The attitude and acts of this striker and others caused affiant to fear violence and injury would be done him. (Superior court, Cincinnati, Ohio.)

Delbert Brand testified that on July 25, 1905, on his way home from work was stopped by a striker, who took hold of his coat. A police officer appeared who said to the striker: "Go over to the saloon where you belong; you won't work, and do not want another man to work." Thereupon the striker took hold of the police officer, desisting and leaving only when the officer threatened to throw him in the patrol wagon. (Superior court, Cincinnati, Ohio.)

Charles Smith testified that on July 14, 1905, on his way home from work was stopped by a striker, who asked if affiant was a molder, and on receiving no for an answer, said: "I know better, and I'll break your head." (Superior court, Cincinnati, Ohio.)

Clement Smith testified that on September 23, 1904, as he was leaving the foundry he was accosted by five or six men, who stopped him and said: "If I was you, I would quit working; it might save you trouble and us, too." To avoid trouble, and on account of said threat, he quit working. (Superior court, Cincinnati, Ohio.)

Herman Beckmann testified that on September 21, 1904, he was stopped by four or five union strikers, who said: "You had better quit your job and make a man of yourself. If you don't quit, we will down you; we will blackball you, and you won't be able to get a job anywhere. You are doing us harm by staying at work." At divers other times he was stopped by the members of the union against his will and threatened. On another occasion a picket said to him: "If I thought you were carrying a gun, I would beat you up." (Superior court, Cincinnati, Ohio.)

Harry Buchelman testified that from September 15 to 19, 1904, on two occasions, he was stopped by union pickets and told: "If you don't quit your job you will go to the hospital." He was followed to within a half block of his home and told he would have to quit, "You are taking our jobs, and we won't stand for it." (Superior court, Cincinnati, Ohio.)

Paul Gosiger testified that on November 25, 1904, one Huber had violated the order of injunction by striking, beating, and kicking in the face one Dickinson. On September 22, 1904, as a number of nonunion men left the foundry, escorted by the police, a crowd of at least 500 men gathered in the streets around the foundry, and upon appearance of the police began to curse and call "scabs," "traitors," and make threats of beating and killing them. These employees were attacked with clubs, sticks, and

other weapons, and bricks, stones, and other missiles were thrown at them. (Superior court, Cincinnati, Ohio.)

Jacob Huber was found guilty of contempt of court and fined $50 and costs of the proceeding. Fine was remitted upon his giving bond in the sum of $250 for further obedience of the injunction. (Superior court, Cincinnati, Ohio.)

James Weilder testified that on September 12, 13, and 14, 1904, he saw from 12 to 25 pickets who made threatening gestures against the nonunion men, calling them "scabs." On September 14, as affiant and one Hill were escorting two employees to their homes, about 100 men surrounded them and attacked them violently. (Superior court, Cincinnati, Ohio.)

George Parker testified that on September 12, 1904, as he was leaving work four or five striking molders boarded the street car with him, made threats, called him vile names, and struck him in the back, telling him that if he did not quit work they would put him in a box. On other occasions he was threatened until in fear he refused to work longer. (Superior court, Cincinnati, Ohio.)

Thomas McCarthy testified that on or about September 11 to 13, 1904, in going to and from the foundry molder pickets threatened him with personal violence unless he refrained from work. On September 14 he boarded a street car to go home and five or six pickets boarded the same car. Later eight or ten more pickets boarded the car. When affiant attempted to alight from the car he was forcibly taken by these pickets to the rear of the saloon, where about 30 strikers surrounded him and made threats of personal violence. Among those men were one Campbell, alias Scheffels, and Joseph Valentine, president of the Iron Molders' Union of North America. Affiant was told that if he did not stop working he would be injured to such an extent that he could never be able to do another day's work; that the best thing for him to do was to leave the city.

Valentine said he was unable to keep his men from doing personal violence to anyone who would work during a strike. Since that day affiant has not worked for the firm. (Superior court, Cincinnati, Ohio.)

Lillie Geren testified that on June 23, 1905, one Oakley, a nonunion molder, entered her store, followed by two unknown men, one of whom struck him and knocked him to the floor. Another man in waiting across the street came into the room and assisted in beating and kicking said Oakley. (Superior court, Cincinnati, Ohio.)

Claude Oder testified that on June 12, 1905, as he was going from work he was stopped by a union picket, who said to him "If you don't quit I'll fix you; you are doing the union harm; if you don't go out you will never be able to hold a job." (Superior court, Cincinnati, Ohio.)

George Kersting trstified that on June 17, 1905, a picket caught him by the arm, asked him if he had changed his mind, and said "You are doing the union harm by not going out; you need a beating, and I am the man who can do it, too," thereupon calling affiant violent and abusive names. (Superior court, Cincinnati, Ohio.)

Harry Smith testified that on June 10, 1905, as he was going from work a man tried to stop him. On Monday, June 19, he was stopped by the same man, who said "I'll break your neck if I catch you. I will lay for you and get you to-morrow." (Superior court, Cincinnati, Ohio.)

John Racel testified that on June 10, 1905, he was stopped by one Wolf, a striker, who said "You will be sorry if you don't do as I tell you and quit working. You are just running a name of yourself—a scab." (Superior court, Cincinnati, Ohio.)

Joseph Shaw testified that one "Patsy" and the business agent of the Iron Molders' Union met him as he was going home from the foundry and tried to induce him to quit work, offering him transportation to any other city and to fix him all right if he would quit. (Superior court, Cincinnati, Ohio.)

Fear of violence when going to and from employment rendered it necessary for the proprietors to rent a large boarding house for the safety of the nonunion workmen. This was maintained at great expense during the continuance of the rioting and mobbing engaged in by the striking iron molders, and even in this temporary home the independent men were in danger because of efforts of the strikers to bribe the cook to poison the food.

F. N. Shanley, superintendent, testified that on the night of November 10, 1904, a dynamite explosion occurred 4½ feet from the boarding house of the nonunion men, which made a large hole in the ground, jarring the building and throwing the men in the boarding house out of their beds. On November 19, 1904, there was continuous picketing and stoning of the foundry and a discharge of a double shotgun at the skylights of the foundry. November 20, 1904, affiant saw two men near the foundry; one of them ran, and, going to that locality, he found a stick of dynamite with fuse attached; he cut it off 6 inches from the stick. Another stick exploded, which threw him against the building, fracturing the drum of his ear and partially paralyzing him.

On November 21, 1904, two explosions at the rear of said foundry and one at the end took place. After the explosion occurred four men emerged and went to a shanty to change their garments and disguises. These men were all members of the Iron Molders' Union. On December 10, 1904, an explosion took place in the core room, destroying the entire windows of the pattern shop and skylights of the core room. December 23, in the rear of the flask yard, a terrific explosion occurred about 10.30 at night. On December 24, 1904, while waiting for a car seven men came out of a saloon and went up to the nonunion men and attacked one named Bauris. He was attacked and beaten by four of the crowd, two holding while two beat him. A policeman refused to arrest the man, one of the strikers saying to the policeman: "Arrest me; I did it," accompanying this admission with a vile and obscene name. A doctor was called. Bauris's wounds consisted of a cut from a blunt instrument, laying open the scalp 3 inches and nearly fracturing the skull; his head and face were covered with blood and teeth kicked loose. He was otherwise badly bruised about the body. Finger marks showed about the throat where they choked him. Some 20 men went after the car on which the wounded man was sent home and attacked him. A shanty was erected near the shop, occupied by and made a pay station and general headquarters for the striking molders in watching who entered and left the foundry. A large number of union molders occupied the shanty, from which the strikers called the employees in the works vile, scurrilous, and obscene names, and one Limholtz threatened, saying: "You will not work long; we will bust the firm; if we can't do it one way we will another." (United States Circuit Court, Eastern District Kentucky.)

Fred Sohl testified that on December 31, 1904, when he left the plant, two men followed, and one of them called affiant "scab," accompanying it by a vile and scurrilous name, and struck at affiant with his fist. Another one said, "If I could kill that ——— I would be willing to die." This was accompanied by a vile and scurrilous name. The strikers continued to call "scabs" and vile names. Police did not offer to interfere or arrest anyone. On January 7, 1905, affiant was followed, and one of the strikers used obscene and profane language toward him. Threats were made, and the superintendent was struck several times with brass knuckles. (United States Circuit Court, Eastern District Kentucky.)

William Weber testified that on November 8, 1904, rocks were thrown through the window of the factory at the molders while they were pouring hot iron into the molds. He also saw some of the strikers on the roof of the foundry looking toward the boarding house. (United States Circuit Court, Eastern District Kentucky.)

Joseph Palmer, engaged in hauling for the foundry, testified that on one occasion a striking molder came to his stables and asked him whether or not he was sending men to the factory for employment and said, "I understand you are running around the country trying to get these hoosiers to work there." On December 3, 1904, his barn and stable, containing 13 horses and much other valuable property, was burned, the loss amounting to $3,000. The fire department, in its efforts to extinguish the flames, were seriously interfered with by persons who seemed to do so purposely. (United States Circuit Court, Eastern District Kentucky.)

William Eng testified that on November 1, 1904, about 15 men threw several volleys of rocks at the windows of the boarding house on the premises of the foundry. On November 3 affiant and the foreman were shot at while eating lunch in said boarding house, one shot striking within 2 feet of affiant. On November 7, 1904, a crowd shot through the windows of the boarding house. An ex-union iron molder was recognized as the person carrying the shotgun. That same evening a number of shots were fired through the windows of the foundry building proper. On November 8, 1904, rocks were thrown through the windows of the foundry at the nonunion molders when they were pouring hot iron into the molds. On November 10, 1904, a dynamite bomb exploded in the foundry about 10 feet from the boarding house. On November 20, 1904, stones were thrown and shots were fired through the windows of the said foundry, and on this same day an explosion took place and later affiant saw Supt. Shanley leaning against the building with a fuse in one hand, a knife in the other. Affiant found a dynamite stick with the fuse cut. Also found where another stick of dynamite had exploded about 3 feet from Shanley, which had torn a hole in the ground 3 feet in diameter. Shanley's face was very much swollen by the explosion. On November 21, 1904, two explosions occurred near the foundry, and a little later another at the west end, which shattered the foundry gate and threw three or four men in boarding house out of their beds. On December 11, 1904, an explosion took place on the roof of the core room, which blew out the windows and frames of the pattern shop. On November 25, 1904, the striking iron molders built a shanty on the unoccupied lot across from the foundry, where daily and nightly they congregated; a large number of them were well known and recognized as former employees of the plant and striking members of the iron molders' union. These men stopped persons coming to

and from the foundry and tried to prevent persons from getting employment there. On December 23, 1904, a dynamite bomb was exploded in the foundry flask yard, which appeared to have been thrown from the fence. On November 19, 1904, about 1.30 a. m., one Simer fired a shotgun twice into the air. This was very close to the foundry. (United States Circuit Court, Eastern District Kentucky.)

John Racel testified that on December 21, 1904, in company with a number of nonunion employees in passing over the streets of Newport, Ky., were stopped by a crowd of men, among whom were striking union molders. One of them used vile, obscene, and indecent language toward one of the nonunion men, and took hold of him, and another of the strikers struck him on the side of the head. (United States Circuit Court, Eastern District of Kentucky.)

Martin Bauris testified that on December 31, 1904, while waiting for a street car a crowd gathered around and one of them said: "Where are you working? Don't you know that you are taking the bread and butter out of my mouth and the rest of these men?" Another member of the crowd informed his fellows that affiant was the cook. Thereupon the first party said: "It does not make any difference. He is over there cooking for those men and helping them along in their work," accompanying this remark with vile and scurrilous names. A crowd of men came out of the saloon and began to push affiant. One struck him in the face; he started to escape, followed by four men, two of whom held and two of whom struck, kicked, and beat him on the head with a blunt instrument. He was covered with blood; head and face cut and bruised. Affiant indicated the man who beat him, asking an officer to arrest him, and the man indicated said to the officer, "Yes; I am the man; come and arrest me," calling the officer a vile and scurrilous name. The officer made no move to arrest or interfere. A physician dressed the wounds of affiant, after which he boarded another car. Seven men boarded the same car and accosted him, saying: "You are a hell of a fine aspect." He went to the rear of the car, loud remarks were made, and the car stopped, discharging all passengers, leaving affiant and seven men on the car, three of whom shoved him. One remarked: "Get him out of here; he is a scab;" saying to the conductor, "Put that fellow off; he is a scab." Three men caught him and attempted to pull him from the car. (United States Circuit Court, Eastern District of Kentucky.)

Albert Holtz testified that on December 31, 1904, when near the foundry he was stopped by a crowd of striking iron molders. One of the strikers called out a vile and obscene name, and took by the arm and forcibly detained and struck one of the nonunion men on the side of the head. The strikers ordered affiant and his companions to go up the street, calling vile names and threatening them. (United States Circuit Court, Eastern District of Kentucky.)

Jacob Keller testified that on December 14, 1904, while going home from work two men suddenly emerged from a dark corner, struck him on the head with a club, knocking him insensible and cutting a gash in his head about 3 inches long. (United States Circuit Court, Eastern District Kentucky.)

Jacob Schardt testified that on December 31, 1904, when near the foundry he was stopped by a crowd of 15 men, one of whom said: "There goes the scab." Thereupon a striker laid his hand upon affiant and asked if he was molding at the foundry. He replied: "I am laboring." Then some one struck him on the back of the head. (United States Circuit Court, Eastern District Kentucky.)

Edward Keller testified that on December 14, 1904, while going home from the foundry two men suddenly emerged from a dark corner, one of whom struck him with a club and ran away. (United States Circuit Court, Eastern District Kentucky.)

Fred Wagner testified that on September 19, 1904, on leaving the plant was accosted by one Berkley, who took hold of him. A large crowd gathered and followed affiant down the street to the car barns, some of whom said: "We will get you to-night; let's take him home," raising a great turmoil. One York, a nonunion molder, was struck and affiant was pushed by the crowd into the street. About 150 people had gathered. (United States Circuit Court, Southern District Ohio.)

James Shanks testified that on the 3d day of September, 1904, the iron molders' union went on strike, and some of them engaged from day to day in watching and picketing the foundry, all of whom were striking molders. On September 19, 1904, affiant left the foundry, and on his way down the street was followed by a large crowd of molders. At the car barns the crowd separated affiant from his companions, and one Bohlman said to him: "Yes, we will get you, too." Members in the crowd of strikers said: "Give it to him." One Berkley struck affiant with his fist on the side of the head. (United States Circuit Court, Southern District Ohio.)

Henry Weber testified that on the 3d day of September, 1904, a strike was called against his foundry. A large number of union molders picketed the plant. On September 19, 1904, as affiant left the shop a crowd of molders came running up to him and crowded around, calling names, "scabs," etc. Other strikers congregated, and

one Berkley said, "What have you got to say?" catching hold of affiant's shoulder, backing him up against the fence, holding one hand in readiness to strike. The strikers called, "Scab, give it to them." Affiant attempted to get on the car; some persons called out, "Don't let him get on." He was surrounded by at least 300 men who continued to call "scab." (United States Circuit Court, Southern District Ohio.)

Frank York testified that on September 19, 1904, he left the foundry, and on his way to the street car was followed by a large crowd of strikers. One Berger said to affiant, "You had better take a fool's advice and keep out of this," and struck affiant with his fist. One said, "Give it to him," and also struck affiant with something in his hand, hitting him over the left eye, cutting a deep wound, causing a flow of blood. Others of the strikers jumped on affiant and tried to strike him. In crossing the street another person struck affiant on the jaw. A large crowd gathered around affiant, calling out, "Scab, throw him into the river," and using many epithets and threatening language; he was pulled off the car and compelled to walk across the bridge. (United States Circuit Court, Southern District Ohio.)

Pole Harrison testified that on September 19, 1904, he was stopped on the Chesapeake & Ohio railroad track by one Linholtz and others accused of being armed and getting men to work for the company, and threatened to be taken to jail. Affiant was stopped by a striking molder and struck by the fist of an unknown man and then by a rock and afterwards struck by several persons. (United States Circuit Court, Southern District Ohio.)

Edward Keller testified that on September 7, 1904, two men come to his house; one, a striking molder named Moclk, who asked him to go out with them on strike, and said, "If you will not go out, we will take a crowd and beat hell out of you." One of the men struck affiant on the leg with his cane. Affiant's wife was present, heard and saw what took place. (United States Circuit Court, Southern District Ohio.)

October 30, 1904, boarding house being fitted up for occupancy of nonunion men, broken into, cots, bedding, chairs, and utensils stolen and burned.

George Ritchie, September 22, 1904, nonunion apprentice boy, severely beaten and injured and taken to a hospital. Lost sight of one eye.

Mike Burke, September 22, 1904, nonunion molder, severely beaten and injured and taken to a hospital. Confined there six weeks.

Charles Wherstein, union molder on picket duty, fined $25 for loitering.

Thomas McGinnis, laborer and strike sympathizer, fined $25 for disorderly conduct.

Thomas Meinan, union molder, striker, fined $25 for assault on one Fitzgerald, a nonunion molder.

John Biskop, October 15, 1904, nonunion molder, struck on the head by brick thrown by one Lanigan, union molder, caused severe scalp wound. Taken to hospital and sewed up.

Edward Callahan, October 25, 1904, nonunion molder, badly slugged by strikers near his boarding house in the evening.

P. J. Nelson, October 26, 1904, nonunion molder, assaulted by one Strausser, a striker picket. Strausser fined $5 and costs.

By reason of the lawless acts of striking molders related in various foregoing affidavits the Newport Iron & Brass Co., located at Newport, Ky., was unable to operate its plant and finally compelled to sell and establish itself in Cincinnati. The strikers continued their warfare against this company in Cincinnati, and much of this lawlessness is likewise recorded in the foregoing affidavits, all of which are taken from court records cited.

PHILADELPHIA, PA.

In October, 1905, a strike was precipitated by officials of the iron molders' union in 11 foundries located in Philadelphia. This strike involved about 600 employees, and to it the union gave more marked attention than to any other which had taken place in several years by detailing a large corps of business agents and vice presidents to be constantly on the ground for the purpose of devising ways and means to harass the proprietors of the foundries and drive them to a capitulation. The strike was purely one to force recognition of the union officials personally.

Speeches delivered at meetings of the striking iron molders by the detailed union officials were punctuated at all times with incendiary utterances calculated to inflame the unionists and spur them on to "force the fight" against the foundrymen.

Presented herewith are several affidavits of sufferers from this character of lawlessness.

Charles Davis testified that an agent of the union bought and sent four kegs of beer and two gallons of whisky to his boarding house for the purpose of getting the nonunion men so drunk they could not go to work on Monday. A business agent of the strikers offered him (Davis) $50 to leave town and quit work for the company. He

was called "scab" frequently by striking pickets. (United States Circuit Court, Eastern District Pennsylvania.)

Don P. Carter testified that he was grabbed and pulled by strikers, who called him "scab," preceded by profane words; accused of taking the bread out of poor men's mouths, and was offered a union card and $50 to quit work and leave town. (United States Circuit Court, Eastern District Pennsylvania.)

Ed. A. Coughlan testified that he heard one Miller, a striking molder, say to two nonunion molders: "You might have to talk to us pretty soon." Also saw four striking molders follow four nonunion men to the street car, and heard the strikers call attention to "scabs in the car." (United States Circuit Court, Eastern District Pennsylvania.)

Charles Mackay testified that striking molders followed him home frequently; threatened they would put the company out of business; that if he did not quit work at once they would see to it that he got no position after the strike was over. He was followed to the street cars by strikers who called out: "Look at the scab, no riding in car with scabs for me." Was jostled and crowded in his seat by strikers, and by them called "scab" and other scurrilous and vile names accompanied by profanity. He was threatened if he did not quit work he would suffer the consequences; his head would be broken; that he was "marked." He was followed home frequently. (United States Circuit Court, Eastern District Pennsylvania.)

Hugh J. Monaghan testified that he was surrounded by eight striking molders, and told he would not be allowed to work. Fifty or more of the strikers followed him and called him "scab" and other unprintable names. He was told: "You won't stay long; we'll fix you so you won't be able to work." He was refused board at a boarding house at the instigation of striking pickets. (United States Circuit Court, Eastern District Pennsylvania.)

George A. Sauers testified that on going home from work on a street car, one Miller, a striker, threatened to "blow his heart out." Others of the strikers told him that if he knew what was good for him he would not go to work." (United States Circuit Court, Eastern District Pennsylvania.)

William L. Haggerty testified that he was approached by strikers and called "scab" and another unprintable name, and was told they (the strikers) would put the company out of business. He was repeatedly followed and harassed by strikers on the streets, who pointed him out to citizens as a "scab," and threatened that if he did not quit work he would be "fixed" and his head "broken." (United States Circuit Court, Eastern District Pennsylvania.)

George McCartney testified that he was followed by seven or eight strikers to the door of his boarding house. Some of the strikers told the landlady of another boarding house that she would have to put the "scab molders out" or the union would cause her trouble. (United States Circuit Court, Eastern District Pennsylvania.)

D. H. McPherson testified that he was called upon by the business agent of the striking molders, who insisted on having a conference with officers of struck foundries, and on being declined said: "We will now know what to do." He was also approached by the national president of the strikers, who said: "Had the Philadelphia foundrymen recognized the union and himself, the strike might have been avoided; now it is a fight to the finish so far as the union is concerned." Later, one of the national vice presidents approached him and stated that he had struck the Allentown (Pa.) shop because they insisted on doing work for one of the Philadelphia struck shops; that any work heretofore made by the struck shops would be followed to customers, who would be threatened with harm to their business if they used the product of the struck shops of Philadelphia. (United States Circuit Court, Eastern District Pennsylvania.)

Arthur Huddleston testified that he was stopped by strikers, grabbed by the arm, and threatened by the words: "You are going to work at the foundry to-day, but by —— you won't go to work there to-morrow." He was followed daily by five or six pickets to and from work. His boarding-house keeper was threatened and told if she "knew what was good for her she would not take scabs to board," and she thereupon refused to board him. (United States Circuit Court, Eastern District Pennsylvania.)

Julius Hoffman testified that he was approached by strikers' agents and offered transportation and employment elsewhere if he would quit work. He was stopped and held by the arm by strikers and again stopped by them near the works and threatened. Was followed by one Ballentine and other strikers to a saloon, called "scab" and another scurrilous name, and was struck by Ballentine, knocked down, kicked, beaten, bruised, and wounded until he escaped to a police station and was escorted home by an officer. (United States Circuit Court, Eastern District Pennsylvania.)

John J. Lance testified that he was called "scab" and other scurrilous names by striking pickets, who threatened to break his neck. He was followed to street car by the strikers, who pushed him off and knocked him unconscious. Strikers told his boarding-house keeper that he was a "scab and thief" and "to put him out." (United States Circuit Court, Eastern District Pennsylvania.)

James J. Tulley, sr., testified that he was awakened at 4 a. m. by strikers, who had furnished two kegs of beer and had it at his boarding house, where a number of nonunion men were made drunk, so that they could not go to work the next day. He was promised by strikers' officials if he "would quit work and leave the city he could go like a gentleman and would not have to worry." (United States Circuit Court, Eastern District Pennsylvania.)

William Jones testified that he was followed to his boarding house by a crowd of strikers, who made angry demonstrations and called him "scab" and so scared the keeper of the boarding house that he (Jones) and other nonunion men were turned away and refused further board and lodging. (United States Circuit Court, Eastern District Pennsylvania.)

GLASSPORT, PA.

The iron molders' union, in July, 1904, ordered its members then employed by the Pittsburgh Steel Foundry, Glassport, Pa., to strike the foundry. Mr. Stewart Johnston, president of the Pittsburgh Steel Foundry, relates that from the beginning of the strike until the granting of a permanent injunction there was a continuous riot and disturbance by the strikers in which one violent act followed another. An injunction was applied for, but not one-half of the lawlessness of the strikers was cited in the affidavits upon which the injunction was based. The strikers blew up, with dynamite, the boarding house in which the nonunion employees were housed and threw two innocent and unoffending foreigners, who were not employed as molders, on the railroad tracks, where they were in danger of being run over by a trolley car, which was fast approaching.

Extracts from certain of the affidavits of nonunion foundry employees, filed formally with the common pleas court, are presented herewith. They all detail acts of violence perpetrated by striking members of the iron molders' union.

Charles Brody testified that he saw stones thrown by one of the strikers; that some of the stones struck close to him; that he had to keep out of the way to prevent being hit by them. Affiant identified one Rumsey as one of the stone throwers. (Common pleas, Allegheny County, Pa.)

Albert Holmes testified that he was called vile and obscene names by strikers, and was struck in the breast by a chunk of coal. One threatened to hit him and one did. Affiant identified one Rumsey as the man that hit him. (Common pleas, Allegheny County, Pa.)

S. G. Switzer testified that he saw two men fighting and pulled them apart. One was bleeding. He assisted him to the office. There was a cut in his head. On another occasion he saw men running and throwing stones and bricks. Affiant was struck with a piece of iron. (Common pleas, Allegheny County, Pa.)

Hugh McGinley testified that he was intercepted by a striker, who struck him in the face. Another came up behind and dealt him a crushing blow with something in his hand. He was rendered unconscious, and did not come to until train reached McKeesport. (Common pleas, Allegheny County, Pa.)

Charles Easton testified that he saw the man who struck affiant McGinley; that the assaulter had brass knuckles on his hand. Then affiant was struck on the head several times. One Rumsey told another man to "slug him," meaning affiant. (Common pleas, Allegheny County, Pa.)

Galit Jefferson testified that he saw five or six men throw bricks at some men across the railroad. Affiant identified one Rumsey as one of the throwers. (Common pleas, Allegheny County, Pa.)

Clark Buhl testified he saw a constable as he was serving a warrant on a man when he was attacked by two or three men, one of whom was one Church, who jumped on the constable, and the latter was compelled to use a "blackjack." Affiant was himself hit and knocked down. Affiant also saw one Sheenan, who had been beaten. (Common pleas, Allegheny County, Pa.)

D. MacDougall testified that he saw one Rumsey, one Carothers, and one Dove throwing stones.

Stuart Johnston, president of the firm, testified that on September 17, 1904, two employees, on quitting work, were assaulted by one Rumsey and others, former employees of the firm, brutally beaten and abused. Both required medical attendance; one was confined to bed. On September 19, 1904, as the nonunion molders left the shop they were attacked by Rumsey, Dove, and one Church, and pelted with

stones until they took refuge in some buildings. (Common pleas, Allegheny County, Pa.)

Four of the principal strikers were sent to jail to serve sentences of 30 to 90 days each on conviction for assaults committed by them. This, however, did not operate to deter others of the riotous element of the strikers from further lawlessness, and the measure of interference, intimidation, and violence became so marked that this firm was compelled to sue for injunction, which was granted by Judge Collier, of the common pleas court in Pittsburgh. Notwithstanding due service of the injunction was had on many of the defendants named in the writ, to wit, Rumsey, Dove, and Carothers, they disobeyed the injunction by severely slugging two of the nonunion molders. They were cited in contempt, duly represented by counsel, and after a full hearing were pronounced guilty and sentenced to pay fines as follows:

Emerson Rumsey	$500
Benjamin Dove	500
George Carothers	100

After these men were so punished the union employed pickets about the plant for a period of six months, but nothing of the nature of violent interference occurred and finally all picketing and other opposition ceased altogether.

TRENTON, N. J.

Richard C. Oliphant, president Trenton Malleable Iron Co., states that during a strike of union molders at the foundry of his company on January 30, 1905, a vicious assault was made by strikers upon nonunion workmen then in his employ. The nonunion employees left the works in company with the treasurer and superintendent through the rear instead of main gate. They were overtaken by the strikers, who had assembled on the outside, and assaulted. Several nonunion employees were hurt and the superintendent was struck.

The Mercer County grand jury, then in session for its January, 1905, term, indicted four of the strikers, who were tried, convicted, and sentenced, as follows:

Frank Cheskey: For atrocious assault and battery. Convicted March 1, 1905. Sentenced April 19, 1905, to one year in State prison.

Frank Touskey: For atrocious assault and battery. Pleaded "guilty" March 1, 1905. Sentenced April 19, 1905, to six months in workhouse.

John Schultz: For assault and battery. Convicted March 6, 1905. Sentenced April 19, 1905, to pay $250 and costs.

Joseph Stokes: For assault and battery. Convicted March 7, 1905. Sentenced April 19, 1905, to pay $50 and costs.

GENERAL STRIKE INAUGURATED.

In 1906, due to the most prosperous condition ever known in the foundry industry, and to scarcity of molders with which the foundrymen were required to contend, by reason of previous limitation of the ratio of apprentices by the union, the organization of the iron molders conceived the idea of stampeding the foundry proprietors and on the 2d of May, 1906, struck over 100 shops simultaneously for the sole purpose of forcing the foundrymen to grant the union its closed-shop demands.

In this issue there was no question of wages or hours involved, as will be shown from the following quotation from publications of the union itself. (May, 1906.)

"For the past two years the organization (the iron molders' union) as a whole had been marking time and the large costly strikes supported had not been entered into for the purpose of securing higher wages or shorter hours, but with the object of resisting the foundrymen's efforts to take away from the molders a portion of the conditions they had already secured."

In further substantiation of the statement that there was no question of wages or hours involved in these strikes we quote from the report of Valentine, president of the molders' union, at the convention of that organization in Philadelphia, 1907:

"The main question that had been at issue and which was finally presented in concrete form by the N. F. A. applied to the limitation of output, the ratio of apprentices, the employment of handymen, the operation of molding machines, and the minimum wage rate."

MILWAUKEE, WIS.

In the gigantic molders' strike of 1906, when from 5,000 to 7,000 molders left their employ, the foundrymen of Milwaukee, Wis., one of the largest centers for the production of jobbing and machinery castings, were involved. Cases of violence, intimi-

dation, coercion were a repetition of those occurring in the cities heretofore mentioned. A partial list of these cases is presented herewith.

John Polzin testified that on July 25, 1906, he was intimidated by threats made to his sister, which she communicated to him, going to his home at 4 o'clock in the morning. One Jeske told two striking molders to knock his brains out and throw him in the river. This threat was accompanied with profanity and a scurrilous name. (Circuit court, Milwaukee County, Wis.)

Walter Klump testified that on July 20, 1906, he was intimated by a striking molder and told he would have to quit work or his head would be knocked off; that he could not depend on his life; they would lay for him and shoot him down; that he would not know who his assailants might be; that he might lay dead for hours and no one find him. (Circuit court, Milwaukee County, Wis.)

Stephen Miller on June 12, 1907, while near the foundry, was assaulted by one Mylnarek. The latter was found guilty and fined $1 and costs, amounting to $17.48.

Alfred Wolfe testified that on July 14, 1906, he was seized by the coat by a striking molder, shaken violently, and told that if he continued to work it would go hard with him. (Circuit court, Milwaukee County, Wis.)

Joseph Wilson testified that on July 24, 1906, on going toward his home a crowd of men threw beer bottles at him. On July 22, 1906, on his way home from church three men stopped him, and one of them called him a liar, another struck him, and the third drew a knife. A companion was with Wilson, and they defended themselves. The three assailants picked up rocks. A policeman appearing, the three men ran away. (Circuit court, Milwaukee County, Wis.)

Richard Gruenwaldt testified that on July 14, 1906, he was accosted by one Humphrey, a striker, who called him "scab," applying a profane name repeatedly. He was accosted by another striker and called "scab" and threatened with a "good licking" that day. (Circuit court, Milwaukee County, Wis.)

Joe Kaszmarek testified that on June 28, 1906, he was stopped on the bridge near shops by one Zemla, who called him a scurrilous name and "scab" and threatened if he did not quit work he would hit him. Same night four men came to his residence and told him he must stop working or there would be trouble. (Circuit court, Milwaukee County, Wis.)

Albert Bayer testified that on June 26, 1906, he was stopped on the bridge by one Karpinski, a picket, who said if he ever caught him alone he would "split his head open" because he brought a "scab molder" to work in a struck shop. (Circuit court, Milwaukee County, Wis.)

F. Kietlinski testified that on May 26, 1906, on his way home from work, he was overtaken by two striking molders, who asked to talk to him, and on his refusal to talk, one Leszynski struck him a violent blow on the back of the head. He escaped further violence by running away. (Circuit court, Milwaukee County, Wis.)

John Haydak testified that on May 28, 1906, on his way home from work, was stopped by about 20 striking molders, who called him vile and filthy names and threatened to kill him if he continued to work. Two molders struck him violent blows, one of which felled him to the ground; others of the strikers threw rocks at him, several of which hit him. The following day 10 of the strikers called at his home and told him he would be given a couple of days more time, and then if he remained at work they would fix him. (Circuit court, Milwaukee County, Wis.)

John Bauernschmidt testified that one Devine, a striking molder, endeavored to get him to quit work, and on his refusal, called him all sorts of vile and filthy names. (Circuit court, Milwaukee County, Wis.)

Peter Gettleman testified that on September 26, 1906, he was followed by one Humphrey, a striking molder, who called out to him: "You are one of the dirtiest scabs; make a sneak out of Milwaukee." Humphrey continued following him, calling him many vile and filthy names and epithets. (Circuit court, Milwaukee County, Wis.)

F. N. Mason testified that on September 26, 1906, Humphrey, a striker, called out to him: "There goes a cheap skate," and asked why he walked in company with a man who was trying to down the iron molders' union. Told him he did not dare enter the saloons of that neghborhood and called him "scab" and profane names. (Circuit court, Milwaukee County, Wis.)

George Johnson testified that on September 24, 1906, one Humphrey and others of the striking molders were picketing across the street from the plant, and Humphrey called out to him and another guard, "Them two are worse than scabs," using profane words at the time. (Circuit court, Milwaukee County, Wis.)

Clarence P. Walker testified that on September 4, 1906, he was stopped by two striking molders, who called him liar and many other vile and filthy names. One of the strikers said: "Take a poke at the scab," calling him at the same time a scur-

rilous name. These same strikers followed him on a street car and to the works. (Circuit court, Milwaukee County, Wis.)

Charles Kasper testified that on September 11, 1906, he was followed by two strikers, who attempted to strike him and called him many vile, filthy, and profane names. Previous to this occurrence, eight of the strikers followed him all the way home, two of them followed to his gate, and in presence of his wife called him "dirty scab" and many other vile and filthy names. (Circuit court, Milwaukee County, Wis.)

Adam Sossong testified that on September 28, 1906, when leaving the shop, Humphrey, a striker, called to him: "You scab, you are going up town to get more scabs? You better pull up your pants, you homely looking policeman; I will scab you some day." "Let us go for him, he is a scab." On another occasion Humphrey said to him: "Never mind, I will catch you in a saloon down town some day. I know where he goes; I will get him some day." (Circuit court, Milwaukee County, Wis.)

The killing of John Feeley, October 17, 1906. Three strikers, members of the union and former employees of the Vilter Co., resigned from the union and returned to work for their old employer in the morning. At night as they, Glasseknapp, Otterson, and Knell were going home from their first day's work, one Lavin and Feeley and an unknown striker lay in wait for the three men named in an alley in a lumber yard. Feeley and the unknown man jumped out and began an assault on them, and in the mêlée that followed, Feeley drew a revolver and shot Glasseknapp in the arm, fired a second shot which left powder grains under the skin of one Johnson's face, and was about to fire a third shot at the officer, who was protecting these men, when the officer shot and killed Feeley. The coroner's jury exonerated the special officer, their verdict being justifiable homicide.

Albert A. Gallum testified that on June 21, 1906, on his way to work he was stopped by four striking molders. One Spinti called him a "dirty scab" and threatened to knock his head off if he did not quit work. Three other strikers called him vile and abusive names. June 23 was again stopped by strikers, who called him vile names and threatened him with violence. Still later he was accosted by other strikers and told they would "land him sooner or later, if not on the street, then at his home." On another occasion seven strikers called him "dirty scabs" and threatened "to do him up" if he continued at work. (Circuit court, Milwaukee County, Wis.)

William Zuehlsdorf testified that on August 6, 1906, on his way home from work he was accosted by two striking iron molders, pickets. One of them said: "We won't let you keep your job; you can keep it for a while, but we will get you mighty soon; we will see that the boss fires you." These same pickets followed and threatened him. (Circuit court, Milwaukee County, Wis.)

Arthur Richard testified that on August 7, 1906, on his way to work he was stopped by two striking molders, pickets, and one of them said: "I have got you now, and I want to know when you are going to quit; if you do not quit, we will knock your ——— head off; you are scabbing; look out, the bunch is looking for you, and they will fix you." (Circuit court, Milwaukee County, Wis.)

David Davis testified that on August 7, 1906, he and two companions were met by a number of striking molders, who attempted to persuade them to quit work, and their refusal to do so, they were called all sorts of vile, abusive, and filthy names and threatened with death. Davis, in fear of injury being done him, ran away. (Circuit court, Milwaukee County, Wis.)

Richard Adams testified that on August 7, 1906, on leaving the works, he and two companions were accosted and stopped by several striking iron molders, who attempted to persuade them to quit work, and on their refusal to do so were called vile, abusive, and filthy names, and were told that if they returned to work in the morning they would kill the bunch of them. That one Kelly struck Adams a violent blow in the back with his fist. In fear of further injury affiant ran away. (Circuit court, Milwaukee County, Wis.)

Raymond Dunham testified that on August 7, 1906, himself and two companions were overtaken by three striking iron molders, who endeavored to get them to quit work. They refused to do so. One Kelley called affiant vile, abusive, and filthy names and threatened to kill affiant and companions if they returned to work in the morning. Kelley pulled affiant off the fence, and turned and struck him a violent blow in the back near the neck. In fear of further injury, affiant and companions ran away. (Circuit court, Milwaukee County, Wis.)

Frank Trost, watchman, testified that on July 21, 1906, a crowd of 20 persons, including several of the striking iron molders entered the premises of the plant, and he ordered them off. Thereupon one Gruebner, a striking iron molder, refused, became angry and with others of the strikers attempted to strike affiant, and he was forced with the aid of another watchman, to close the gate to prevent bloodshed. (Circuit court, Milwaukee County, Wis.)

August 6, 1906, at night; three apprentice boys employed by the National Brake & Electric Co., were assaulted. Affidavits were secured, but no arrests were made because of fear of the apprentice boys to testify against their assaulters, who were union pickets.

October 16, 1906, the night furnace man of the National Brake & Electric Co. foundry, went into a saloon to get beer for his lunch, and was attacked by fiye pickets, who injured him severely.

Walter Andrewski, police officer, testified that on October 24, 1906, he saw one Henning and other strikers stop one of the guards and take hold of him. The officer told Henning not to bother these people when they were going home from work. Henning ordered the officer to search the guard, and was told by the officer to mind his business, and shoved him off the walk, whereupon Henning jumped on the officer, saying: "You policemen can't handle anybody; you can't handle me; all you fellows can't take me." He was again cautioned to keep quiet, refused, and was arrested. (United States circuit court, Milwaukee, Wis.)

Thomas Englis, guard, testified that on October 24, 1906, while escorting two non-union men home from work, he was stopped by strikers, jostled, and shoved around and called vile names. (United States circuit court, Milwaukee, Wis.)

William Harriman testified that on October 24, 1906, he was stopped by strikers and pushed off the sidewalk, called vile and filthy names, and "scab." At another time he was assaulted by pickets and received a blow which blackened his eye. (United States circuit court, Milwaukee, Wis.)

William Powell testified that on October 24, 1906, he was stopped, blackguarded, jostled, and pushed about and called scurrilous names, while on his way home from work, and was obliged to seek safety in a police station. On other occasions he was molested frequently by being threatened by strikers, who told him to quit work or they would know the reason why. (United States circuit court, Milwaukee, Wis.)

Steve Chrobat testified that on October 16, 1906, on going home from work, one Schmidt and two other strikers, pickets, accosted, threatened, and assaulted him. Schmidt was afterwards convicted for violating the injunction in this assault and sentenced to imprisonment. (United States circuit court, Milwaukee, Wis.)

Joe Cieplueh testified that on October 12, 1906, he was followed to his home by four strikers; one of them struck him, all of them swore at him and threatened him with bodily injury, and to kill and shoot him. He was chased from the street car to his gate. The next morning, on his way to work, he encountered five striking pickets; he was threatened with death if he did not quit work. (United States circuit court, Milwaukee, Wis.)

Charles F. Buschman testified that on October 12, 1906, a crowd of strikers circled around him, one of whom said: "Let's beat him"; he ran to a street car platform, and one of the crowd struck at him; there were some six or eight strikers in the crowd, and they told the motorman to put him off, and called him all sorts of vile names. (United States circuit court, Milwaukee, Wis.)

Frank Buck testified that on October 3, 1906, he was threatened by three strikers, who stopped him and told him that if he did not stop work they would split his head open. (United States circuit court, Milwaukee, Wis.)

Adam Nowak testified that on October 8, 1906, he was stopped by three strikers, one of whom struck him a severe blow on his eye, injuring him so much that a doctor was summoned. (United States circuit court, Milwaukee, Wis.)

John Durovy testified that on November 1, 1906, he was accosted by one Kirby, who called him an obscene and scurrilous name, saying, "Go out or we will get you." Kirby and another man, both being pickets, followed him, striking him on the back of the head, knocking him down in a ditch, afterwards taking his overcoat and running away. (United States circuit court, Milwaukee, Wis.)

John Holzbach testified that he was followed to the street car by strikers frequently and surrounded and called obscene names. The strikers threatened to "get him." (United States circuit court, Milwaukee, Wis.)

Stephen Jister testified that on his way to work one morning, two strikers stopped him as he was crossing a vacant lot and asked him where he was working. On his reply, they struck him, threw him down, and when he arose he missed $9, which he had in his pocket. (United States circuit court, Milwaukee, Wis.)

Edward Schraufnagel testified that on about October 1, 1906, as he was going to work one morning, he was threatened by a striker, who said, "You will get it some day." (United States circuit court, Milwaukee, Wis.)

Jacob Nowitzki testified that on October 1, 1906, one Thomas, a picket, told him it would be better for him to quit his job and help the union men out. Thomas said, "We will let you fellows work, but John Holzbach, we will get him, anyhow." (United States circuit court, Milwaukee, Wis.)

Frank Strzyewski testified that a striker wearing picket button No. 38 said to him, "You had better quit work or you will have a good licking coming to you." (United States circuit court, Milwaukee, Wis.)

Gus Freese testified that during October, 1906, he was threatened by one of the strikers, who said to him, "You will get it some day." He was threatened at other times, and asked for a guard to protect him going to and from work, and the guard was furnished him. (United States circuit court, Milwaukee, Wis.)

Leo Leonardo testified that on May 15, 1906, he was assaulted by one Skonizny, a striker. Skonizny was convicted of assault and battery and fined. (Police court, Milwaukee, Wis.)

Phillip Rich testified that on May 15, 1906, he was assaulted by one Skonizny, a striker. Skonizny was convicted of assault and battery and fined. (Police court, Milwaukee, Wis.)

Manus Patton testified that on September 13, 1906, he was assaulted by Austin Slattery, a striker, who beat him severely. Slattery was fined $10 and costs. (Police court, Milwaukee, Wis.)

Jos. Siejowski testified that on January 4, 1907, or previously, he had been intimidated and called "scab" by one Hart, a striker. Hart was fined $5 for this offense. (Police court, Milwaukee, Wis.)

Frank Nowicki testified that on October 31, 1906, he was followed on his way home and assaulted by the Poziecel brothers and knocked down and kicked severely, for which his assailants were arrested and fined $5. (District court, Milwaukee, Wis.)

William Struck testified that on November 23, 1906, he was assaulted by one Henning. For this assault Henning was fiend $4. (Police court, Milwaukee, Wis.)

Louis Starke testified that on December 14, 1906, he was assaulted by three striking molders and kicked in the head and both eyes blackened. The three strikers who committed this assault were each fined $10. (Police court, Milwaukee, Wis.)

George Eastwood testified that on May 11, 1906, he was assaulted by one Ezwinski, a striking molder. Defendant was found guilty and sentence suspended. (Police court, Milwaukee, Wis.)

Art. Johnson, on August 20, 1906, was followed by one Hopper, a striking molder, who ran up behind Johnson and struck him on the head and then ran away.

A. E. Mason on August 21, 1906, was chased and intimidated by one Gib. Thompson, a striking molder.

Caspar Stizyzanski on August 24, 1906, was assaulted by one Slattery, a striking molder.

John Ratajewski on August 7, 1906, was assaulted by two striking molders, one of whom was Slattery.

John Schmelski on August 7, 1906, was assaulted by two striking molders, one of whom was Slattery.

Mike Berkowski on September 11, 1906, was assaulted by one Porath and struck in the face.

Richard Comerford on September 12, 1906, was attacked by strikers and beaten into insensibility, head and face battered, and several of his teeth knocked out. He was unconscious when picked up and taken to the hospital.

Thomas Gagnier was a union molder in the employ of Allis-Chalmers Co. prior to the strike and went out with other union members. On September 10, 1907, he resigned from the union and returned to work for the company. On the night of September 12, 1907, while standing in his kitchen a revolver bullet, fired from the street through the window by an unknown person, struck him in the thigh. As a result of this shot he is partially crippled for life.

The continuous resort to violence by the iron molders' union strikers against the nonunion employees of the Allis-Chalmers Co., as shown herein, compelled application for injunction, which was duly granted and afterwards violated by 21 individual members of said striking union.

Fourteen of the 21 were tried and found guilty of contempt of court. Sentence was suspended during good behavior and the right reserved to cause them to appear in court and inflict sentence.

The other 7 of the 21 were adjudged guilty of disobedience to and violation of the injunctional order as charged and sentence passed upon them as follows:

	Days in the common jail.
Joseph Jagodzinski	15
D. Lonergan	30
John Lutz	30
Michael Katzbaum	30
John Schmidt	30
William Henning	40
Anthony Gutkowski	60

(United States circuit court, Milwaukee, Wis.)

At West Allis, Milwaukee, the Allis-Chalmers Co. established a boarding and logding place inside the walls of the property, because many of the nonunion men refused to work unless housed and fed within the plant and many of them during the period of their employment and until all violence ceased would not venture outside in fear of violence at the hands of the strikers and union pickets.

John Gondeck testified that on August 19, 1906, while on his way home he was grabbed by the arms by one Bureta, who said "You used to be one of our brothers," then struck him a violent blow in the face, inflicting a bruise. There were five other men with Bureta. Gondeck's wife saw the assault and ran out of the house with a pistol to protect her husband, and his assailants thereupon ran away. (Circuit court, Milwaukee, Wis.)

Henry Flaherty, July 20, 1906, was walking with his brother Daniel when one Frank Cahill collided with Daniel and called the brothers "cowards" and obscene names; then proceeded to take off his coat, threatening to whip them. Seven or eight other men were with Cahill at the time, and later the crowd increased to 20, and one Sterling, without warning, struck Henry, knocking him down, and others attacked Daniel and knocked him down also, and the crowd pursued the brothers to their home, and one James Henry, a striker, forced the door open partly and was ejected, and again returned and pounded on the door, terrifying Henry's wife. (Circuit court, Milwaukee, Wis.)

Daniel Flaherty made substantially the same affidavit as Henry Flaherty. (Circuit court, Milwaukee, Wis.)

Herman Rudolph, testified that in July, 1906, one Muehlman came to his home and tried to persuade him to quit work, and on refusing to do so Muehlman said: "It is getting dark now, and you have to go by my place when you put your horse in the pasture, and if I should shoot you nobody would know anything about it." July, 1906, as affiant was going to his home, he was accosted by one Grahm and another striker, and Grahm said, "Let us turn around and take a square look at that star scab." July 20, 1906, going home from work, he was intimidated by one Ladwig, a striker, who advanced toward him with his arms in a threatening attitude and talking in anger, but saw an officer across the street and retreated to a saloon. (Circuit court, Milwaukee, Wis.)

Sig. Jamkowski, Frank Lewandowski, Stan. Groskinski, June 5, 1906, were attacked by strikers' pickets, who drew knives and threatened them.

Michael Langer, union molder, June 18, 1906, was fined $20 and costs or four months in prison for breaking into a foundry and smashing molds. He was caught in the act.

Steve Bostwick, August 28, 1906, was assaulted by union molders in the saloon of Joseph Crawford, a union sympathizer, badly beaten, cut over the eye and head bruised. Was taken to the Emergency Hospital.

Walter Dages, July 9, 1906, was assaulted by three union pickets named Hoppe, Szynak, and Wochwrak; he was knocked down and while down drew his revolver and fired three shots and his assailants ran away. This happened at noon while Dages was on his way to work.

William Mergell, July 18, 1906, was on a visit to friends in the foundry; he was assaulted by strikers and injured severely, was taken to a hospital where his wounds were dressed.

L. Winslow, August 25, 1906, was laid off and on departing from the works was followed by union pickets and assaulted, and in the mêlée dropped his grip and ran to the railroad station. The police recovered the grip.

Herman Koretz, August 26, 1906, was assaulted and beaten by union pickets who led him into a saloon; he was struck and kicked and one of his arms injured. After rendering him nearly insensible, his assaulters ran out of the back door of the saloon. He was previously offered $5 per week if he would quit work.

Frank Carpenter, George Sullivan, September 11, 1906, were assaulted by three union pickets and severely injured as they were passing some freight cars. The pickets came from behind the freight cars.

COLUMBUS, OHIO.

Nine foundries employing under normal conditions nearly 300 workmen were struck by the iron molders' union at Columbus, Ohio, on July 5, 1906, because of the refusal of proprietors to permit the establishment of obnoxious union conditions in their plants. The course of the strike was marked by riots precipitated by union iron molders. Excerpts from affidavits relating incidents of lawlessness are presented herewith.

Julian S. Williams tertified that on August 4, 1906, on going home from work he was accosted by two strikers who called him "scab" and "liar." He was struck a violent blow in the face, cutting it seriously. (Common pleas court, Franklin County, Ohio.)

Thomas S. Proctor testified that on August 11, 1906, as he was entering the gate of the foundry, he was stopped by five strikers, one of whom struck him violently with his fist and another one struck at him with a heavy stick, wounding him on the breast and on the hand. (Common pleas court, Franklin County, Ohio.)

Howard S. Riddle testified that on July 16, 1906, as he was at the gate of the plant he was accosted by one Crooks, a striker, who said to him: "I will kill you if you bring any more scab molders into this plant in your automobile." (Common pleas court, Franklin County, Ohio.)

Alfred Blake testified that on July 14, 1906, as he was leaving work he was set upon by several strikers and struck several blows about the head and face and one striker struck him over the head with a heavy stick. (Common pleas court, Franklin County, Ohio.)

Carl H. Anthony testified that on July 16, 1906, he left the company's office in an automobile, and on passing a crowd of strikers a stone was thrown by one of them, hitting him on the arm, and he was hooted and jeered at by them. (Common pleas court, Franklin County, Ohio.)

Edwin R. Merrill testified that on July 16, 1906, he saw the man who threw the stone at Anthony; it came from a crowd of strikers which had been constantly picketing the plant. This crowd of strikers was very noisy and riotous. (Common pleas court, Franklin County, Ohio.)

Homer Crowe testified that on August 4, 1906, he was surrounded by a crowd of strikers near the plant and forcibly detained from going home and roughly handled until a crowd of citizens gathered and the manager came in an automobile and rescued him from further harm. (Common pleas court, Franklin County, Ohio.)

Edward D. King testified that on July 23, 1906, he saw a crowd of strikers throw stones and bricks at the fence and building of plant. On July 31 such act was repeated and a brick was thrown directly at him and a great many bricks struck the building and material of the company. (Common pleas court, Franklin county, Ohio.)

Charles Martindale testified that on November 7, 1906, on leaving work and about to board a street car, he was seized by the arms and forcibly detained, hooted at, jeered, and cursed. He broke away from his assailants and took refuge in a street car. (Common pleas court, Franklin County, Ohio.)

Ned Thatcher testified that on November 7, 1906, he was with Martindale and was seized by the same crowd, one of whom took hold of his throat and another struck at him. He escaped to a street car. (Common pleas court, Franklin County, Ohio.)

Nicholas Eichenlaub testified that on July 13, 1906, he was visited at his residence by two striking molders who tried to coerce him to quit work, and on his refusal went into his yard and menaced and threatened to "tear him limb from limb like a cat." On another occasion one of these men shouted at him: "I will get you and I will get you right." On August 23, 1906, going home from work he boarded a street car, and was followed by three strikers and prevented from leaving the car at his home. He was grabbed by the arm and one of these men said: "There is no use of talking longer to that" (followed by a scurrilous name). He was then struck a blow back of the ear. (Common pleas court, Franklin County, Ohio.)

W. J. Langston testified that on August 23, 1906, he was accosted by one Finneran, who said to him: "You can stay here if you want to; that injunction isn't worth a d—— anyhow." Another striker called him a saphead and preceded it by a profane and scurrilous name. (Common pleas court, Franklin County, Ohio.)

J. W. Ward testified that he was going home from work and was surrounded by five or six strikers, who took hold of him by the wrists. He defended himself and broke away from them. (Common pleas court, Franklin County, Ohio.)

Judson Haley testified that he was going home from work with Ward and was also stopped by the same crowd, who grabbed him by the arm. He broke away from them and was pursued by them for two blocks. (Common pleas court, Franklin County, Ohio.)

Smith Tomey testified that on August 12, 1906, he was the janitor of a foundry, and while walking along near the works he was held up by one Gavin, a striker, who laid hold of him and searched him for a revolver. A police officer appearing, prevented him from injury. (Common pleas court, Franklin County, Ohio.)

John Holmes testified that on August 18, 1906, he was surrounded by five striking molders who demanded of him he should not disclose the names of any spies to the company's officers, whom the union would put in the works under pretense of being nonunion molders; that he would suffer injury if he did so. They seized hold of Holmes and tried to force him up the stairs to the union hall. One of the strikers struck him a heavy blow over the right eye and another of them, one Miller, held a large jackknife in his hand. Holmes broke away and ran for safety. He was fre-

quently threatened and urged to assist in injuring the employees by tampering with the molds, so that the molten metal would explode and burn the employees. (Common pleas court, Franklin County, Ohio.)

The court commented upon the evidence presented as follows:

"On the evening of November 9, 1906, certain employees left the plant in a body to take street cars to their homes, accompanied by a detail of six or more policemen. A body of men, many of whom were strikers, followed them, marching on the opposite side of the street. The opposite crowd increased in numbers and from its direction came derisive cries and hoots and the officers claim that bricks and stones were hurled by the opposing crowd at the nonunion men and officers. The officers lined the employees (nonunion) up against a billboard to wait for the cars and the other crowd (strikers) lined up on the opposite side of the street, still hooting and jeering. An argument started between a striker named Finneran and a nonunion man named Brenneman, and Finneran was knocked down, shots were fired, but the officers were unable to locate who fired."

The court also found that the strikers had established a headquarters near the company's plant and for several months maintained pickets to watch the new men employed by the company; and in addition to the pickets the strikers, varying in numbers from 10 to 60, had congregated near the plant at about the time the employees quit work, evidently for the purpose of creating trouble. (Common pleas court, Franklin County, Ohio.)

CHICAGO, ILL.

Over 700 union iron molders and core makers went on strike in Chicago May 1, 1906, as a part of the previously concocted scheme of the national molders' organization to compel foundry proprietors throughout the United States to grant formal recognition of the union by the signing of an agreement to employ members of the union only. The progress of this strike was punctuated with the customary coercion and intimidation by the members of the iron molders' organization in their treatment of the independent workmen who accepted employment in the struck plants. A résumé of a portion of this lawlessness is set forth in exerpts taken from affidavits of the molested workmen.

M. J. Mulvey, police officer, testified that on September 8, 1906, he was accosted by a striker, who said: "I suppose you are going in there to get that ——— bunch of scabs; you are a coward; you are afraid to say anything; we will get you and your gang when you come out to-night." This was accompanied by vile and scurrilous names. These strikers entered a saloon, came out with a large china pitcher, took hold of affiant's arm, struck him a violent blow over the eye, cutting open his head, requiring him to secure the attendance of a physician. Assailant was arrested and a mob which gathered attempted to release him going to patrol box. One of the mob asked assailant: "Was it you that gave it to him, Chuck?" Assailant replied: "Sure I did; I gave it to the big ——— ——— ———. I gave it to him with the growler." (Superior court, Chicago, Ill.)

Peter Gieles, testified that on July 20, 1906, in company with an officer, he was accosted by a striking iron molder and threatened if he went back to work in the foundry he would be killed. (Superior court, Chicago, Ill.)

Michael Miller, testified that on July 28, 1906, about midnight, stones were thrown through the front windows of his home by striking molders, shattering all the glass therein. On August 1, 1906, stones were again thrown through his windows and against his house, causing him to move away and keep secret his next place of abode. (Superior court, Chicago, Ill.)

Julius Pulaski, testified that on June 15, 1906, on going home he was approached by three men believed to be striking molders, who violently beat and wounded him, after asking his place of employment. One of his assailants seized a piece of slag or iron and beat affiant over the head with great force and violence. Another struck him over the right eye and continued to beat him about the head, face, and body until he broke away. On August 20, 1906, on going home affiant was accosted by three strikers, one of whom said, "If you go back to work to-morrow I will kill you." (Superior court, Chicago, Ill.)

Welda Dugan, testified that on July 24, 1906, on going home a striking molder followed him 3 blocks insisting on talking with him; affiant refused, whereupon the striker said: "We will talk to you," at same time addressing to him vile and indecent language. (Superior court, Chicago, Ill.)

John Shinkus testified that on September 9, 1906, sitting in front of his home was assaulted by a striker, who beat him over the head with a piece of iron casting, 8 inches long and 1 inch in diameter; also threw him down on the sidewalk, striking him another blow in the eye with this instrument, and said, "You ——— ——— scab.

I will fix you; don't you go to work on that job again; if you do, I will kill you." (Superior court, Chicago, Ill.)

F. H. Blanding, superintendent, testified that molders and coremakers on strike instituted system of pickets about his plant, maintaining it over four months; these pickets approached the foundry, requesting nonunion men to quit, calling them "scabs," "finks," etc. Pickets followed and watched nonunion men when they left the plant. On several occasions affiant had talked with nonunion molders desiring to work in the foundry, but on learning it was picketed by members of the iron molders' union, these nonunion men told him (affiant) they feared injury and did not dare to work as long as picketing was maintained. (Superior court, Chicago, Ill.)

Ernest F. Zitzewitz, president Sheffield Foundry Co., testified that in July, 1906, his company was making castings for the Allis-Chalmers Co., and while so engaged on the 26th of July, 1906, one James Brown, representing the iron molders' union, called and said to affiant: "You have got to shut down on that work. Our men have orders not to do any Allis-Chalmers work, as that is a struck shop." Affiant avers that he regarded said Brown's instructions as a direction or order which would be enforced if necessary by boycotting against his company by calling a strike of the iron molders and coremakers employed therein or by other coercive measures. Affiant further avers that he obeyed the direction of the union as expressed by said Brown and refused to continue to do any work for said Allis-Chalmers Co., although he greatly desired to do so. (Superior court, Chicago, Ill.)

Edward J. Welch, foreman, testified that on July 26, 1906, James Brown, a member of the iron molders' conference board, said to him: "I am going to make trouble for you now; you have got to stop making this Allis-Chalmers work right off." That about 12 or 15 molders did leave his employ because requested to turn out castings designed for the Allis-Chalmers Co. and did not return to work. Affiant further averred that he feared to undertake any of this work in the future on account of incurring the displeasure of the iron molders' union, and regards said Brown's action as an order from the union, to be enforced if necessary, by a boycott against his company. (Superior court, Chicago, Ill.)

Charles R. Smith testified that about August 15, 1906, James Brown, a representative of the iron molders' union, approached affiant and said: "What are you doing with the Allis-Chalmers work?" Affiant advised him to see the proprietor, whereupon Brown told the proprietor, in these words, "You might as well throw out that Allis-Chalmers work, as the men won't work on it; they have my instructions not to work on it." Brown thereupon wrote the proprietor as follows:

Mr. JEMES BRADY,
Manager Reedy Foundry Co.

DEAR SIR: Having recognized the patterns in your shop, known as Sullivans, and knowing them to be Allis-Chalmers Co.'s patterns, and recognized by our organization as struck work, I hereby notify you to stop making any more castings off those patterns.

Yours, respectfully,

JAMES BROWN,
Representing Iron Molders.

(Superior court, Chicago, Ill.)

Harvey Smith testified that on August 22, 1906, he was stopped by two pickets, who called him names too vile to be particularly set forth in his affidavit, and being in fear of physical injury he ran away from said pickets. (Superior court, Chicago, Ill.)

Edward Tate testified that he was satisfied with his employment and did not desire to be interviewed by striking molders, their pickets, or representatives, but that their picketing was a menace to his safety and he was in great fear of physical injury and dared not go to and from the foundry unless escorted and protected by a guard. (Superior court, Chicago, Ill.)

Columbus Chase testified that about August 15, 1906, on leaving the foundry was stopped by three pickets, who told him in a threatening manner it would be best for him to quit working, and if he did not quit he would see what he would get. On August 28 on leaving the plant he was approached by about 10 pickets, one of whom carried a large stone, advanced toward him in a threatening manner, and a stone was thrown, which narrowly escaped striking him. (Superior court, Chicago, Ill.)

Patrick J. Leonard testified that on September 4, 1906, on leaving the foundry he was approached by a molder, who said, "You better get out of that shop and get out of there quick; you will never work another day at that plant; if you were not an old man I would wipe the streets with you right now." (Superior court, Chicago, Ill.)

V. C. Rittenhouse testified that on August 10, 1906, on going to work he was approached by two men, members of the iron molders' union; one told him that

unless he stopped working for the foundry he "would get it later on." In fear affiant was compelled to live, sleep, and take his meals at the foundry. (Superior court, Chicago, Ill.)

Fred Schulz testified that on May 2, 1906, while directly in front of the foundry where he was employed, he was approached by four striking union molders, one of whom told hi if he continued to work they would kill him, and in fear he stopped working that day. On July 30, 1906, he was approached by five strikers, one of whom took violent hold of him and said they would kill him if he did not stop working for the company. He jerked away and escaped on a street car. (Superior court, Chicago, Ill.)

William Noisen testified that on June 15, 1906, on leaving the foundry he was followed by 20 union pickets, 4 of whom were members of the iron molders' union conference board; he was followed 4 blocks when his pursuers overtook him and one said: "What in ——— are you trying to do?" Another called out: "Kill him; get a brick and knock his head off." They took hold of him and his guard rang for the police patrol, on arrival of which the crowd scattered. Affiant further avers that since returning to work he has lived entirely within the foundry where he is employed, in fear of being assaulted by union pickets. (Superior court, Chicago, Ill.)

Nicholas Pauly testified that he began July 11, 1906, to eat, sleep, and live within the foundry where he was employed in fear of being attacked and assaulted by union pickets if he attempted to go to and from his home to work. (Superior court, Chicago, Ill.)

Edward Larkin testified on August 30, 1906, that prior to that date almost every night as he left the foundry where employed he was followed by two strikers, usually for a distance of 3 or 4 miles, and at various times these strikers attempted to take his picture. The strikers called him "scab" and other vile names, telling motormen and conductors on street cars that he was a "scab." (Superior court, Chicago, Ill.)

John Miller testified that on August 4, 1906, on leaving the foundry he entered a barber shop, and while there a member of the iron molders' union called him a "——— scab," took violent hold of him and officers separated them; after getting on the street he was again called vile and abusive names and followed all the way home by this striker and two others. (Superior court, Chicago, Ill.)

William H. Winslow testified on August 29, 1906, that plaintiff, by reason of picketing by the striking iron molders, it became necessary to furnish board and sleeping rooms in its plant for 20 to 25 molders employed therein at great expense; plaintiff was also compelled to employ numerous guards to protect its property. (Superior court, Chicago, Ill.)

August Larsen testified that July 1, 1906, he was approached by a striker and a sympathizer and the striker called him vile and obscene names and followed him to his home, striking him a violent blow in the face and knocking him off the steps of his house. A policeman arrested both men, affiant was discharged, and the striker fined $5 and costs. (Superior court, Chicago, Ill.)

Carl Dano testified that on July 20, 1906, when going home from the foundry he was approached by two striking molders, one of whom told him the best thing he could do would be to quit and if he did not he would get a good licking. In fear of this threat, affiant stopped working for the company the next day, although he much desired to retain his employment. (Superior court, Chicago, Ill.)

Winfield Jackson testified that on August 12, 1906, on going to the foundry he was approached by five or six men, who called him "scab" and other vile names and struck him a violent blow in the face. (Superior court, Chicago, Ill.)

John G. Koenig testified that since the 7th day of June, 1906, he had often seen numerous iron-molder union pickets about the foundry, who have called the non-union molders vile and obscene names and "scabs," threatening them if they would come outside of the plant they (the pickets) would beat them up. (Superior court, Chicago, Ill.)

John Jula testified that on July 1, 1906, on going to work he was struck in the back of the head with a brick, knocked to the ground, and injured so that he was unable to go to work. (Superior court, Chicago, Ill.)

A. C. Hadley testified that about June 25, 1906, on leaving the foundry two striking iron-molder pickets accosted him and one of them said "If you do not quit working for that company we will stop you if we have to kill you." On June 26, 1906, the same picket said "If you do not stop working there we will kill you." On September 4, 1906, on leaving the foundry two pickets followed him and Ed. Strauss, a fellow workman, and said to Strauss "If you do not quit work I will kill you; you won't work there very long." One of these pickets followed affiant and threw a brick, striking him on the jaw, greatly bruising and wounding him. A great crowd of people assembled about him, among whom were five or six union pickets who had fol-

lowed him from the foundry, one of whom said "——— ——— you, if you go back to work there to-morrow you won't go home alive; I will kill you, ——— ——— you." (Superior court, Chicago, Ill.)

Joseph Klom testified about August 13, 1906, on going to work, he was approached by the secretary of the iron molders' union, who said to him: "We want you to come down to the office at once and you had better look out for yourself," and thereafter this affiant received a letter, reading as follows:

MACHINERY MOLDERS' UNION, LOCAL NO. 233 OF CHICAGO,
Chicago, August 27, 1906.

Mr. JOE KLUM.

SIR AND BROTHER: You have been charged with violating section 2 of article 13 of the constitution, and you are hereby notified to be at the business agent's office on Friday, August 31, at 8 p. m., when your case will be taken up and you will be given a hearing.

[SEAL.] GEO. HERRIOT,
Recording Secretary, No. 233.

(Superior court, Chicago, Ill.)

Edward Strauss testified that on September 4, 1906, he left the foundry and was accosted by two striking iron molders, one of whom said: "If you do not quit working there I will kill you; you will not work there very long." These pickets followed affiant and called him names too vile to be set forth in print. (Superior court, Chicago, Ill.)

Charles N. Secrist testified that on June 26, 1906, on his way to work, he met two pickets, one of whom said: "If you do not stop working we will make you; if you do not quit we will kill you." Subsequent thereto affiant on every occasion went to and from his work under protection of a police officer. (Superior court, Chicago, Ill.)

Charles Dickerson testified that on August 29, 1906, in going to his home, while directly opposite the union headquarters, he was attacked by two men, one of whom struck him on the temple and the other struck him on the jaw and knocked him to the ground. (Superior court, Chicago, Ill.)

John Steinbrecher testified that on August 29, 1906, a striking molder told him that the union men were going to attack Charles Dickerson; that they knew where he lived, and were going to catch him somewhere in the neighborhood of his residence. (Superior court, Chicago, Ill.)

George Hickens testified that on September 5, 1906, on leaving the foundry, he was accosted by three strikers, who ran after him, and one of them said: "We will take a shot at you some night." They continued to follow him, pointing to him and saying: "There goes three scabs." (Superior court, Chicago, Ill.)

Louis Macejaweski testified that on August 31, 1906, on going to work in the foundry he was approached by a striker, who said to him: "If you don't quit working there I will knock your ——— ——— block off." (Superior court, Chicago, Ill.)

Thomas Spencer testified that about July 9, 1906, on leaving the foundry he was stopped by two striking pickets, who said to him in an angry and threatening manner: "You are taking our jobs; we give you just a week to get out of there." (Superior court, Chicago, Ill.)

William Beyer testified that on August 28, 1906, near his residence he was accosted by a striking molder, who said to him: "I gave you warning now not to make any more cores, and I will watch you myself, and as soon as you get out of the yard you will get it." (Superior court, Chicago, Ill.)

Frederick Poole testified that on September 4, 1906, when near the office of his employer two men accosted him and said: "What are you watching; if you were not such an old ——— ——— ———, I would knock you down." One man took violent hold of him and the other threatened him with a large stone. (Superior court, Chicago, Ill.)

Anton Bazata testified that on the 4th of September, 1906, on going to work in the foundry he was approached by two men, one of whom told him he had better stop working for the company or he would get his head knocked off; that both these men took hold of him, forced him to board another car and go back home; that each of these men had on his coat a molders' union button. (Superior court, Chicago, Ill.)

Andrew Sowirzol testified that on August 22, 1906, on leaving the foundry he was approached by a man, who said: "If you don't stop working I will kill you if it takes a week or so to do it." On September 5, 1906, on leaving the foundry to go home six or seven men followed him all the way. On arrival at home one of these men went up to affiant, shook his fist in his face, and said: "You ——— ——— ———, if you don't stop working at Henry E. Pridmore's we will kill you." Owing to the fear he had of the pickets he did not return to work on the next day. (Superior court, Chicago, Ill.)

Mike Staum testified that on June 8, 1907, when going home he was accosted by two men, one of whom said to him: "You had better stop working for the company; you are working with a lot of scabs." Affiant denied this, and the man further said: "You are a ——— liar; you are working on the floor; you've got to quit working there; if we catch you working there again, maybe you will never be able to work." (Superior court, Chicago, Ill.)

Emil Spenle testified that on February 1, 1907, he left the foundry and on transferring street cars and when near an alley he was jumped upon from behind and struck on the head with a sharp and heavy weapon, cutting his head and knocking him senseless. While on the ground he was kicked in the face and head. (Superior court, Chicago, Ill.)

Joseph Klum testified that on November 8, 1906, on leaving the foundry he was approached by the secretary of the Iron Molders' Union for Chicago, who said to him, "I see you fellows have lost the watchmen who used to take you home; aren't you afraid to go out without him? Well, you will get those watchmen back pretty soon, you ——— ——— dirty scab; you have been going with the watchmen all summer long; there are too many with you to-night, but I will catch you to-morrow night." (Superior court, Chicago, Ill.)

Magnus Hanson testified that on November 19, 1906, on going to work he was approached by the secretary of the Iron Molders' Union for Chicago, who said to him, "Well, I see that you are scabbing it; you are a ——— ——— dirty scab; you had better get to hell out of there, and if you don't we will get you." (Superior court, Chicago, Ill.)

John Jonnitts testified that on May 17, 1907, on going home, seven men came up to him, two of whom were striking pickets, one of whom, after asking him if he was working on the floor, struck him a hard blow on the left cheek bone and said, "If you don't stop working there we will kill you next time; we know where you live and we will get you next time." (Superior court, Chicago, Ill).

Theodore O. Oppalavski testified that on May 17, 1907, on leaving the foundry to go home, two pickets came up to him and one said, "You had better quit working there or you will get your neck broken; we may not do it, but some one will fix you." On May 28, 1907, the same picket said to him, "I thought we told you to quit; we are going to watch you and if you do not stop working there some one will fix you." On February 14, 1907, the same picket hit affiant on the left cheek with his fist. (Superior court, Chicago, Ill.)

Albert Vojtas testified that on May 28, 1907, on leaving the foundry, four men came up behind him, one of whom said, "You are working on a bench; you are molding there." He then asked affiant to go to a wagon shop. A fifth man came up and was told, "Hit him." He was thereupon struck a violent blow, cutting his face, causing his cheek to bleed, and blackening his eye. (Superior court, Chicago, Ill.)

Harry Mendoza testified that on May 29, 1907, when returning to the office of his company, he was met by a man who asked him if he was working in the foundry, who struck him a violent blow with his fist. (Superior court, Chicago, Ill.)

Steve Zmrazak testified that on August 31, 1906, five men approached him, one of whom was a union picket, and another one said to him that he had better stop working for the company and go to another country; that if he did not he would see what he would get. On May 29, 1907, two men, whom he had seen picketing the plant many times, approached him; one of them said: "You will have to stop working there; don't you go there any more; you have got no business working there and you have got to stop." The second man struck him several violent blows on the right side of his face, knocking him down. On arising the other man struck him and knocked him down again and thereupon both men jumped on him and kicked him about the head, shoulders, and body until he was unconscious. His face was covered with blood, lips badly swollen, and side of his face and nose badly swollen. As a result of this he was compelled to leave his employment. (Superior court, Chicago, Ill.)

Joseph Galus testified that on October 19, 1906, on leaving the foundry he was met by three union pickets, one of whom said: "Wait a minute; I want to tell you something. Somebody told me that you work on the floor as a molder and you will have to quit. I won't say anything to you, because you know me, but I will get somebody to fix you." (Superior court, Chicago, Ill.)

Joseph Wolfers testified that on November 8, 1906, on leaving the foundry he was approached by two striking molders and taken to the house of a German, who asked him if he knew there was a strike on; told him it was not right to work there, and thereupon one of the strikers said to him: "If we catch you working there again we will lick you." (Superior court, Chicago, Ill.)

John Literak testified that on March 28, 1907, the secretary of the iron molders' union for Chicago, in a threatening manner said to him: "You had better work some-

where else and not scab it; you can get a job at the Western Electric Co.; I will give you until to-morrow night to do so and if you don't I will fix you up." (Superior court, Chicago, Ill.)

Magnus Hanson testified on May 24, 1907, that in front of his own home he saw three men, one of whom wore an iron-molders' union button; after passing, he was struck in the back of the neck, knocked down, then struck twice in the back, called for help; some people came out of the house and assailants escaped. (Superior court, Chicago, Ill.)

Ivor Knudson testified that on May 21, 1907, on leaving the foundry he saw three men, who accosted him, one of them striking him over the right temple, knocking him down and kicking him in the right side. He was taken to a physician for treatment; right eye found badly discolored and cut. (Superior court, Chicago, Ill.)

Alfred Fox testified that on May 21, 1907, he accompanied Ivor Knudson to the physician who treated his injuries. The physician stated that a hard instrument must have been used to cause Knudson's injuries, as there was a fracture of the smaller bone back of the cavity of the eye. (Superior court, Chicago, Ill.).

William Rohrar testified that on January 15, 1908, on going to his home from work he was assaulted in front of his house by a man who came from behind and struck him a violent blow in the mouth with his closed fist, which was covered with brass knuckles or a hard instrument, knocking three of his teeth loose and dazing him. Immediately afterwards another man, running up behind, struck him with his fist in the right eye. It was five days before affiant was able to return to work. (Superior court, Chicago, Ill.).

Paul Paschki testified that on February 11, 1908, he was assaulted by two men unknown to him, one of whom struck him a heavy blow in the right side of the face and the other man stepped to the left of him and struck him several blows on his head, nose, and in the eyes, cutting a large gash on his nose. Both eyes badly bruised, and affiant avers brass knuckles were used. (Superior court, Chicago, Ill.).

BUFFALO, N. Y.

The quiet of the industrial situation at Buffalo, N. Y., was disturbed by the union of iron molders in May, 1906, simultaneously with that in other prominent foundry centers heretofore mentioned. In addition to the coercion and intimidation of the alleged peaceful picket in the person of the striking iron molder, this strike was emphasized by the perpetration of a murder and the establishment of an extensive boycott. The methods of the union are presented in the abstracted affidavits of independent workmen herewith.

P. H. Somers testified that on September 12, 1906, on going to work in the foundry, he met one Lauber, a member of the iron molders' union, who accosted him and asked him: "Where are you going?" Affiant was then grabbed by the arms and struck four or five blows. In fear affiant then gave up his job. For this assault Lauber was arrested and fined. (Supreme court, Erie County, N. Y.)

Joseph W. Fisher testified that on September 13, 1906, he was followed to the street car by one Reindfliesch and other strikers, who called out: "There are the scabs." Reindfliesch then raised his right hand, holding an open knife, striking affiant's brother, cutting him on the thumb. Affiant was also cut on the lip. Affiant and his brother were then set upon and pounded by the strikers. The main assaulter in this case was arrested and tried before a magistrate and put upon probation without fine or punishment. (Supreme court, Erie County, N. Y.)

Martin Hamer testified that on October 11, 1906, as he entered the door of his boarding place he was assaulted by four strikers, iron molders, who ran up the steps and one of them struck him a blow on the head, knocking him down. (Supreme court, Erie County, N. Y.)

Caroline Campbell testified that on October 11, 1906, Lehman and Rowan, striking iron molders, came to her house at night, entered and said: "I hear that you are harboring nonunion men. I want to warn you, lady; I don't want to make you trouble, but you have got to get rid of those men." This was accompanied by vile and profane language. (Supreme court, Erie County, N. Y.)

James Manock testified that on October 3, 1906, on going to his home at night he was stopped by two strikers, one of whom said, "When are you going to get out of town? If you don't we'll fix you so you won't come back." (Supreme court, Erie County, N. Y.)

George Brandel testified that on September 27, 1906, striking iron molders picket stopped him and pushed to one side and said, "Go on about your business; we will give you your trimmings to-night." Affiant further testified that pickets stopped him nearly every night as he went home from work, questioned him and put him in fear. (Supreme court, Erie County, N. Y.)

Frank Tix testified that on October 5, 1906, on coming to work in the foundry, one Lehman called to him, "Come here, Frank; I heard you were molding; if you don't stop molding we will make you stop; I told some molders down in Pollock Town and you had better look out; we will watch at the corners and lick you." (Supreme court, Erie County, N. Y.)

Paul Miller testified that on October 5, 1906, one Lehman, a striking molder, stopped him and told him in a threatening manner that he must stop molding for the company. (Supreme court, Erie County, N. Y.)

Robert Kane testified that on September 19, 1906, on going home with a fellow nonunion workman, among whom was one Trader, they were followed by four striking iron molder pickets, among whom were Rowan, Lehman, and Wahl, who followed right behind them, calling out, "There goes four scab molders." On September 28, 1906, affiant was accosted by Rowan, who said, "When are you going to quit? If you fellows don't promise to get through to-night we will put you out of business so that you won't be able to work; I'll lick the both of you yet." Wahl said to affiant, "Come up to the council hall to-night and take out a card; if you don't we will put you on the bum." Affiant was in fear of being shot or killed. (Supreme court, Erie County, N. Y.)

Clarence A. Trader testified that on October 2, 1906, on going home from work in the foundry, one Rowan, a member of the iron molders' union, and a picket at the Buffalo Foundry Co. plant, stopped him and asked, "When are you going to leave town? Suppose we make you go; we'll give you your trimmings; you know where Joe Crosson is; we'll put you where he is if you don't leave town before Saturday night." Affiant avers that by saying, "We will put you where Joe Crosson is," said Rowan meant that he would be killed. By reason thereof affiant was in fear of going to and from work. (Supreme court, Erie County, N. Y.)

(NOTE.—The Crosson referred to in the foregoing affidavit was a nonunion iron molder who was killed during the first few days of the strike.)

William Seigert testified that on September 28, 1906, he was stopped by one Rowan and others of the striking molders. Rowan put his arms around affiant and said, "If you don't quit work before Saturday night, I'll fix you so that you won't be able to work. You'll have to fight. I am going to trim you to-night. You won't get out of this field unless you leave that shop." Rowan thereupon tried to force affiant to fight. A policeman pulled Rowan away. Affiant further avers that every night as he went home he was accosted by strikers and called "——— scab." (Supreme court, Erie County, N. Y.)

Ralph Di Pirro testified that on October 8, 1906, on going back to work in the foundry an iron molder picket stopped him in front of his house and said, "I hear that you are molding. You have got to cut that out. There will be trouble for you if you don't cut that out. When the Milwaukee matter is settled and we go back to work, you will have to get out if you don't stop working now." Affiant thereupon did stop molding and was afraid to continue to work. (Supreme court, Erie County, N. Y.)

KANSAS CITY, KANS.

Assaults upon defenseless women and the families of nonunion workmen were among the atrocities committed by striking iron molders in Kansas City during the course of the strike called in May, 1906, as a part of the generally widespread attempt of the molders' union to force recognition. Extracts from affidavits made by nonmembers of this union employed in the foundries in Kansas City at the time will afford an idea of the extent to which this lawlessness was carried.

R. B. Sheridan testified that on September 3, 1906, he was met by a crowd of 15 men, the majority striking molders, who stopped him and called him "scab" and made insulting remarks. As he boarded a street car they assaulted him, knocked him senseless, and inflicted severe and permanent injuries. (United States Circuit Court, Fourth District Kansas.)

P. T. Kinman, special policeman, testified that he heard members of the iron molders' union threaten to do different employees of the company bodily injury; that all the employees of the company were in constant danger of assault by members of the union. (United States Circuit Court, Fourth District Kansas.)

John Ryan testified, on September 20, 1906, striking iron molders tried to induce him to quit work and offered to pay his railroad fare to Chicago and pay him a sum of money. October 7, 1906, two men on behalf of the union offered to pay the railroad fare of himself, wife, and son to Chicago and $50 if he would quit the employ of the company. On October 9, 1906, affiant, his wife, and son were assaulted by members of the union because he refused to quit work for the company. His wife was knocked down, his son was struck in the side, and affiant himself was struck on his head, and all were severely injured. That members of the molders' union were constantly

about the plant of the company, followed the employees, cursed them, and applied vile, vulgar, and insulting epithets to all of the employees, seeking to intimidate them. (United States Circuit Court, Fourth District Kansas.)

Jacob Barney, foreman, testified that on November 2, 1906, on leaving the foundry he was met by a crowd of striking molders, who abused, called "scab," and insulting ephithets were applied to him. (United States Circuit Court, Fourth District Kansas.)

W. H. Pickford testified that members of the union threatened, insulted, and intimidated him when he refused to quit work. Affiant and one Mrs. Ryan were accosted by strikers. Affiant was assaulted and injured by one of the strikers. They were called "scab" and vulgar and profane names. That one member of the molders' union was fined for striking Mrs. Ryan. This same striker threatened affiant, saying: "I will get your head yet." (United States Circuit Court, Fourth District Kansas.)

Robert Cochrane testified that about June 1, 1906, members of the iron molders' union called at his home and told his wife to tell him to quit working for the company; if he did not, he would be in peril of injury from the strikers. (United States Circuit Court, Fourth District Kansas.)

Charles Adams testified that a member of the molders' union drew a knife and threatened him. On another occasion a member of the molders' union threw a brick at him; that these assaults were made on him because he refused to quit work for the foundry company. (United States Circuit Court, Fourth District Kansas.)

W. H. Dean testified that on November 2, 1906, a number of the members of the molders' union then on strike met him on his way from work and used vile and insulting language toward him. One of the crowd proposed to throw him down and break his arms so that he would be unable to work, and then assaulted him, pursued and threw rocks at him until he met a policeman. (United States Circuit Court, Fourth District Kansas.)

George Bartling testified that he knew of the molders' pickets having firearms on their persons; that members of the molders' union threatened to do him bodily injury; that they called at his home and threatened his wife that if he continued to work for the company "they would get him if it took 50 years." That on November 3, 1906, at 3.30 a. m., a rock was thrown through the window of his sleeping room in his home. (United States Circuit Court, Fourth District Kansas.)

John M. Busby testified that on October 10, 1906, on leaving work in the foundry, was followed by a mob of strikers, surrounded and forcibly stopped, insulted, and called "scab" and other vile, obscene, vulgar, and profane names. This crowd got on the car with him, crowded about and threatened to kill him. He was struck in the back of the neck and severely injured. On October 20, 1906, he was pursued from the foundry gate by a crowd of men, among whom was one striker whom he recognized, and cursed, threatened, and struck with a brick and again severely injured. Affiant believes he would have been killed by this mob had not a policeman met him; that by reason of these assaults he was forced to give up his employment. (United States circuit court, Kansas.)

J. E. Atterburn testified on November 10, 1906, that members of the iron molders' union insulted the employees of the foundry company, applied to them vulgar, obscene, and profane language, such language being too vile and indecent to be placed in an affidavit. Affiant further avers that more than 12 times in three months he was met by mobs composed of members of the iron molders' union and sympathizers, who forcibly stopped and surrounded him, pulled his coat, rubbed their hands over his face, and used the most vile and insulting language, daring him to "just lift a hand or make a move" to give the mob an excuse or an opportunity of assaulting him. (United States circuit court, Kansas.)

A. M. Stivers testified on November 10, 1906, that members of the iron molders' union constantly followed the employees of the foundry company, threatening them with personal violence, insulting them, and applying to them all kinds of vulgar and profane epithets; that mobs composed of members of the iron molders' union and their sympathizers have many times surrounded the employees of the company, compelling them to stop, and applied abuse and threats of all kinds. (United States circuit court, Kansas.)

Henry Snyder testified on November 10, 1906, that members of the iron molders' union congregated in mobs and constantly threatened to do personal violence and insulted and applied to him vile, obscene, and profane epithets and stopped employees of the foundry company on their way to work, surrounding them and forcibly preventing them from going to and from their work. Affiant further avers that on many occasions he has been stopped and forcibly detained, insulted, and subjected to all manner of insults and indecent language applied by members of the iron molders' union. (United States circuit court, Kansas.)

John Howley, Henry Clawson, Ed. Brown, and W. O. Meyers, fellow employees of Henry Snyder, who makes the foregoing affidavit, verified its accuracy under oath by corroborating the statements therein contained.

Forest Bryan testified that on occasions between June 6 and June 30, 1906, members of the iron molders' union cursed him, calling him scab, and other vile and unprintable names, and would hurl such epithets at him in the presence of women. On June 15, 1906, on leaving the foundry members of the iron molders' union attacked him and a fellow employee, knocking his fellow employee down; stones were thrown at affiant and they endeavoring to catch and beat him and at the same time a shot was fired. Finally affiant was compelled to fight his way out. Affiant further avers that striking molders constantly intercepted employees, threatening them with acts of violence and saying that they intended to keep up such acts until the nonunion employees would quit work. Stones were thrown at the street car in which affiant was riding, breaking the front window. (United States Circuit Court, Fourth District Kansas.)

Lee Prine testified that subsequent to May 22, 1906, he was compelled to remain day and night in the foundry where he was working on account of the actions, threats, and intimidations of the members of the iron molders' union then on strike; that while sleeping in the plant, and on other occasions members of the iron molders' union threw rocks at the building, and would stand upon the viaduct in front of the plant and call him "scab" and other vile names and threaten to do him bodily violence unless he would quit work, saying they would "get him" if they had to take a double-barreled shotgun; that during May and June he was repeatedly followed and was compelled to seek places of safety to prevent members of this union from doing him bodily harm. (United States Circuit Court, Fourth District Kansas.)

William Level testified that during May and June, 1906, on account of the strike of the iron molders' union the company for which he was working was compelled to keep most of its employees housed in the plant, day and night, because the strikers threatened bodily violence to all of the employees as they went to and returned from work; the company was also compelled to have special policemen on duty day and night. Affiant further avers that 11 members of this union whom he recognized, located themselves on the viaduct in front of the plant and called affiant and other employees "scab" and other names too vulgar to place in an affidavit; that while housed in the plant these same men threw stones at the building and on one occasion threw stones at the street car, breaking some of the windows; that in the latter part of June four or five of the strikers stopped him, and one of them said: "You will get your brains knocked out; you have got no business in this fight; why don't you sit down and have nothing to do with it?" (United States Circuit Court, Fourth District Kansas.)

ST. PAUL AND MINNEAPOLIS.

Abstracts of affidavits and statements of proprietors of struck foundries, made during the strike at St. Paul and Minneapolis, furnish abundant evidence of the universal and long-continued training of members of the iron molders' union in the manner of fighting strikes by means of threats, creating fear in the heart of the independent workman, and the resort to belligerent methods in the unlawful accomplishment of their purposes. The foundry proprietors in these two cities were among those selected by the iron molders for attack in consonance with the general scheme of campaign for the furtherance of the closed-shop foundry throughout the United States.

Minneapolis Steel & Machinery Co., Minneapolis, statement: Union molders struck this foundry in April, 1905, and immediately posted their pickets. On April 12 one of the new nonunion molders employed in the foundry was so seriously injured that he was unable to return to work for several days. April 14 three others were badly injured by union pickets; after this it became impossible to get men to enter the foundry on account of fear of union pickets, and a boarding house for nonunion molders was installed within the plant. Picketing was continued throughout the entire summer, and at all times the nonunion men were subject to the jeers and insulting language of the union pickets.

Diamond Iron Works, Minneapolis, statement: Union molders struck this foundry in May, 1906; due to the slugging and intimidation of striking molders on the outside, this firm was obliged to employ special guards to protect nonunion workmen going to and from the works during a period of over five months. Men who left the works without guards were in every case assaulted or insulted in various ways, and in a number of instances the strikers went to the homes and intimidated the wives and families of the independent workmen. For a period of three months this firm was compelled to board its nonunion foundry employees within its plant. Emissaries of the molders' union even went so far as to threaten with violence the merchants who furnished supplies to the nonunion men.

Flour City Ornamental Iron Works, Minneapolis, statement: Union molders struck this foundry in May, 1906. To protect the independent molders employed by this firm from the annoyance and intimidation of the striking molders, it was compelled to rent and establish boarding houses for their maintenance. Independent molders of this company were several times brutally attacked on the street and in the street cars when going to and from work.

Kilgore-Petler Co., Minneapolis, statement: Union iron molders struck this foundry during May, 1906. Difficulties and losses encountered as a result of the strike were a very serious matter for the firm. Prior to the strike a number of the officers of the molders' union were employed in this plant; as a result this foundry was made a center of attack by the strikers. Independent foundry employees engaged to take the places of strikers were required to be housed within the plant and special guards employed to protect them. Several employees who attempted to go home from or return to work in the plant were beaten. Molders who had been sent for at distant points at considerable expense were intercepted and threatened until they refused to go to work. Families of nonunion workmen of this firm were threatened at various times. This property was picketed for many months.

Charles Paul, an iron molder who refused to go on strike from the foundry of the Kilgore-Petler Co., Minneapolis, testified that he was the only man employed in said foundry who remained and worked for the company in the foundry during the period of the strike. He attended the cupola, went back and forth to his home each day; and was continuously threatened with violence each day by the striking molders. Special policemen frequently accompanied him home from work and he was careful not to give the strikers a chance to injure him; other men working with him were severely pounded. Strikers went to his home a number of times, offered to get him other work, and threatened if he did not quit working in the foundry they would "fix him." Affiant's brother, one of the striking molders, did all he could to get affiant to strike. (Notary public, Hennepin County, Minn.)

Standard Foundry & Machine Shop, Minneapolis, statement: Union iron molders struck this foundry during May, 1906. Due to the intimidation, violence, and slugging of the striking molders on the outside, who attacked the nonunion iron molders of this company whenever they left the foundry, this firm was compelled to employ guards to protect them in going to and from the foundry for a period of five months.

Crown Iron Works Co., Minneapolis, statement: An iron molders' strike was inaugurated in this plant in May, 1906. Due to the picketing of this plant, intimidation, violence, and slugging by the striking iron molders on the outside who attacked the nonunion molders employed by the firm whenever they left the foundry for their homes, the company was compelled to employ guards to protect the employees. For a period of five or six months the firm was seriously handicapped in operating its foundry.

American Hoist & Derrick Co., St. Paul, statement: Union molders struck this foundry during May, 1906, taking out with them six apprentices who were at work under signed agreements with their parents to learn the trade. These apprentices were not members of the union. Four probationary apprentices were also induced to strike as well as molding machine operators who were not members of the union. As the independent molders secured by the firm to take the places of the strikers were leaving the foundry on the evening of the second day great excitement prevailed about the plant and large crowds had congregated in the street. Five employees were conducted through the crowd of strikers by the manager of the firm and placed upon a street car, and told by him to be sure and leave the car near their boarding houses in a place where other people were also on the street. As the car was crossing a bridge, two men followed on bicycles; others ran along on the sidewalk, 12 of them finally getting aboard the car. One nonunion molder, as he stepped from the car, was struck on the side of the head and a free fight ensued. The firm then fitted up a boarding house inside the plant, providing cots and eating arrangements for the nonunion molders, after which practically all the foundry workmen boarded inside the plant and special policemen were employed who patrolled the foundry night and day. Striking molders who quit the union and returned to work in this foundry were hunted until it was unsafe for them to leave the plant. Two of them were occasionally taken to their homes on Sundays by the manager of the plant that they might have opportunity to visit with their family. Affidavits showing the surrounding of the houses of nonunion workmen by mobs of strikers and their sympathizers, as well as affidavits indicating the intimidating and terrifying by strikers of the families of nonunion molders, have already been furnished and are shown herewith. Patterns for castings were sent to foundries in other cities early in the strike. The strikers sent a committee to two foundries at Mankato, Minn., and told the proprietors of these two shops a strike would be inaugurated immediately if they continued work on the castings. Both foundries canceled their orders, and the patterns were returned. The

same tactics were resorted to in Keokuk, Iowa. At Winona, Minn., castings were ordered from the Phoenix Iron Works. Striking iron molders went to this foundry and endeavored to stop the work. Two union iron molders were induced to strike; the other men remained at work. Other foundries where patterns were sent by this firm were also intimidated in this way.

St. Paul Foundry Co., St. Paul, statement: Union iron molders struck this shop during May, 1906, and pickets were immediately stationed around the plant to intimidate new employees and annoy the management. For approximately a year the number of pickets on duty ranged from 6 to 20 and over, who were about the plant during the opening and closing hour. Threats, intimidating tactics, and slugging were employed by the strikers to prevent nonunion men going to work. Customers of the firm were also stopped and questioned with reference to their business association with the firm, and attempts made by the strikers to persuade or intimidate these customers to withdraw their patronage. Union pickets followed the delivery wagons of the firm to their destinations and attempted to persuade the men from handling these products, especially those in the building trades line. Attempts were also made by the strikers to get other workmen to refuse employment on jobs where material was furnished by this company. The firm was compelled to inclose its entire property with a high board fence and station watchmen at the gates to prevent strikers or their friends getting into the plant. The trouble became so acute the firm was obliged to employ guards continuously to watch its premises, and to escort workmen in and out of the shop, and to go to their homes for them. Four city policemen were also stationed at the plant morning and evening to preserve order. The firm was forced to open a boarding house upon the premises to house its nonunion workmen who feared violence from the strikers if they attempted to leave the plant.

Louis Anderson testified that on May 4, 1906, on going home from work in the foundry he was approached by striking molders' pickets and threatened with violence if he continued to work for the company while the molders were on strike. (Notary public, Ramsey County, Minn.)

Joseph Rourke testified that on May 20, 1906, on going home from work in the foundry he was accosted by a striking molder picket who called him vile and indecent names and threatened to be roughly handled if he continued to work. (Notary public, Ramsey County, Minn.)

Charles Smith testified that on June 4, 1906, he was stopped by the striking molder picket who was accompanied by several others, one of whom said: "I will knock your head off if you don't quit your job." Another said it would be a good thing to do it then while they had a chance. Affiant succeeded in getting away from them. On June 5, 1906, he was again threatened by a striking molder picket with bodily harm if he did not quit his job. (Notary public, Ramsey County, Minn.)

James R. Orme testified that on June 4, 1906, he was stopped by a striking molder picket who said: "If you don't quit your job we will put you on the bum, and will fix you so you will never learn the trade." (Notary public, Ramsey County, Minn.)

Frank Urbane, apprentice, testified that on June 4, 1906, he was stopped by pickets of the striking molders, and one of them said: "If you don't quit your job we will put you on the bum and fix you so you will never learn the trade." A striking molder visited his father and tried to get him to compel affiant to stop work in the foundry. (Notary public, Ramsey County, Minn.)

Herman Schoenherter, superintendent, testified that on June 4, 1906, union pickets of the striking molders came to a window of the foundry and said to him: "If you don't leave your job and quit scabbing, the boys will never work under you again." They used threatening and indecent language, stating they would get even if he did not quit work. (Notary public, Ramsey County, Minn.)

R. G. Buchanan testified that on June 4, 1906, on going home from work in the foundry he was stopped by some 15 strikers' pickets, who called him "scab" and other vile and indecent names and threatened him with bodily harm. On another occasion one of the strikers took violent hold of him, but he managed to escape on a street car. (Notary public, Ramsey County, Minn.)

Charles Moranda testified that on May 20, 1906, he was stopped by a striking picket, who threatened him with violence if he did not quit his job and called him "scab" and other foul and indecent names. June 4, 1906, on going home from work he was approached by a striking molder picket and threatened that if he did not quit work he would meet with bodily harm; that he, picket, would not do the work himself, but the strikers would get some one to beat him up. June 15, 1906, he was stopped by six strikers' pickets, and one said: "I will kill you if you don't get out." Another one called him vile and scurrilous names, threatening to "knock his head off," and two of these pickets struck him. He was threatened to be blown off the earth if he did not quit his job. (Notary public, Ramsey County, Minn.)

Mrs. John E. Hegman, wife of nonunion molder, testified that on June 16, 1906, two strikers' pickets entered her home while she was bathing and threatened that if her husband did not quit his job something would happen; that he would be roughly handled. A union machinist came in later and informed her that unless her husband quit his job the union men would kill him. A large number of union pickets surrounded her home afternoon and evening waiting for her husband to return. In fear they left home and remained at a hotel that night and Sunday. (Notary public, Ramsey County, Minn.)

Tony Jacomet testified that on June 30, 1906, he heard a man calling for help and found one Bertz being assaulted by two men. On going to his aid found him lying on the ground and thereupon the assaulters walked away cursing and calling him scab. (Notary public, Ramsey County, Minn.)

William Bertz testified that on June 30, 1906, on going home from work, was stopped by two pickets for the striking molders, who cursed him and struck him with their fists, knocking him down. (Notary public, Ramsey County, Minn.)

E. J. Wolff testified that on June 30, 1906, on going home heard a cry for help and saw that William Bertz was being assaulted by two men, who knocked him down, and on reaching him the two men went away calling "scab" and cursing. (Notary public, Ramsey County, Minn.)

John Swanson testified that on June 17, 1906, four striking molder pickets called at his home and asked his wife to see him; she refused and closed the door. The strikers remained around his house the whole day and evening until the police were called; thereupon they left. (Notary public, Ramsey County Minn.)

E. A. Schafer testified that on June 5, 1906, he was followed home by two striking pickets who offered him money if he would leave the place and threatened bodily harm if he did not quit work and stop "scabbing." (Notary public, Ramsey County, Minn.)

David Dudrey testified that on May 28, 1906, several pickets for the strikers told him that if he did not quit "scabbing" they would beat him up. (Notary public, Ramsey County, Minn.)

J. B. Davis testified that pickets of the striking molders approached the window of the foundry in which he worked, threatened to cut his throat, kill him, and do him bodily harm, because he cooked the meals for the men at work in the foundry. (Notary public, Ramsey County, Minn.)

D. Whipple testified that on June 3, 1906, two strikers, pickets, invited him to a saloon to have a drink and then called him vile and indecent names and one of them struck him with his fist. (Notary public, Ramsey County, Minn.)

George Grey testified that on June 1, 1906, on going home from work he was stopped by five members of the striking union and told that if he did not quit work he would be roughly handled; that if he knew what was good for him he would throw up his job. (Notary public, Ramsey County, Minn.)

J. A. Schaefer testified that striking molders' union pickets threatened him with bodily harm if he did not leave his job, coming to windows of the foundry to do so. (Notary public, Ramsey County, Minn.)

William Gustafson testified that on June 5, 1906, eight pickets of the striking molders' union told him he would have to leave his job and stop scabbing or they would make trouble for him and do him bodily harm. (Notary public, Ramsey County, Minn.)

William Brown testified that on June 3, 1906, he was approached by three molders' union pickets and called vile names, one of the pickets striking him and felling him to the floor, whereupon he was set upon by the three, severely beaten, and obliged to go to a physician for treatment. (Notary public, Ramsey County, Minn.)

Roy Ringius testified that at divers times since the strike he was approached by pickets for the striking union, who upon his refusing to quit cursed him and threatened to do him bodily harm if he did not throw up his job. (Notary public, Ramsey County, Minn.)

R. W. Northrup testified that on May 17, 1906, he was stopped by several striking molders' union pickets, who stated that if he did not quit his job he would be roughly handled and beaten up. (Notary public, Ramsey County, Minn.)

Ferdinand A. Lambrecht testified that on June 10, 1906, two striking iron molders told a bartender not to sell him beer, because he was the father-in-law of a nonunion man working in a struck foundry; they also threatened to put him out of business if they got him in a dark alley. (Notary public, Ramsey County, Minn.)

William Lambrecht testified that on June 11, 1906, he was approached by three striking molders' union pickets and told that if they ever caught his brother-in-law, a molder working in the foundry, they would give him a licking for scabbing; if he did not quit work he would be roughly handled by the pickets. (Notary public, Ramsey County, Minn.)

William Myers testified that on June 28, 1906, on leaving foundry he was approached by 30 striking molders' union pickets, one of them cried: "Kill the d—— scab," and he was struck with a blackjack on the chin with rocks in the back, and severely beaten. One of the strikers fired with a revolver and he ran to the office. Several more shots were fired after him. (Notary public, Ramsey County, Minn.)

William H. Fuerst testified that on June 30, 1906, on leaving foundry to go home he was stopped by a crowd of 25 union pickets who called him "scab" and other vile and indecent names. Policeman standing nearby refused to interfere with the pickets. (Notary public, Ramsey County, Minn.)

Robert C. Stolpman testified that on June 28, 1906, on leaving the foundry he was surrounded by a crowd of striking molders' pickets, and called "scab" and vile and unprintable names. Strikers drew clubs and revolvers and one struck him on the head, knocking him down three times, and while down he was hit by a number of the strikers with clubs and his coat torn to pieces. Several shots were fired at him by the striking unionists. (Notary public, Ramsey County, Minn.)

John A. Storm testified that on June 28, 1906, on leaving the foundry he was approached by 25 striking molders' pickets, was taken hold of, called "scab" and other vile and indecent names, one calling out, "Kill the d—— scab." Affiant was assaulted and severely beaten. Several shots were fired. (Notary public, Ramsey County, Minn.)

H. P. Steere testified that on June 28, 1906, on leaving the foundry, he was approached by 25 striking molders' union pickets, who called "scab" and other vile and indecent names, and he was severely beaten. Several revolver shots were fired. (Notary public, Ramsey County, Minn.)

Tony Weber testified that on June 28, 1906, he saw Myers, Stolpman, Storm, and Steere leave the foundry and become surrounded by a large crowd of strikers, who called names and cursed them, took hold of and hit them with clubs, and as they ran back to the plant they were fired at several times with revolvers. (Notary public, Ramsey County, Minn.)

Joe Polaski testified that on June 19, 1906, going home from the foundry, he was followed by 15 pickets of the striking molders' union, who hooted, jeered at, and called him "scab" and other vile and indecent names. His wife met him at his gate, and she was also jeered and sworn at by the pickets. (Notary public, Ramsey County, Minn.)

Mrs. Joe Polaski testified that on June 19, 1906, when waiting for her husband to come from work, she saw he was followed by striking pickets, jeering and swearing at him, and on reaching her called her vile and indecent names. These pickets remained around the house for some time. (Notary public, Ramsey County, Minn.)

Harry Youngren testified that on June 30, 1906, on leaving the foundry, he was followed by three striking molders' pickets, who pursued him to the door of his boarding house in a threatening manner. (Notary public, Ramsey County, Minn.)

Mrs. John Swanson testified that on June 3, 1906, a striking iron molder called at her house and threatened to smash her husband's head if he did not quit his (Swanson's) job. On June 17, 1906, striking molders' union pickets called at her house and frightened herself and children by one of them carrying an open clasp knife, trying several times to get into the house, and remaining around the outside to catch her husband. Policemen were sent for, and upon arrival the pickets left the vicinity. (Notary public, Ramsey County, Minn.)

Ruth E. Swanson testified that on Sunday, June 17, 1906, 15 men representing themselves as pickets for the striking iron molders called and asked to see her father. They were refused entrance and remained around the house all day and evening, walking up and down in front, one flourishing a knife. Policemen came and the pickets left. (Notary public, Ramsey County, Minn.)

John Cimminski testified that on June 22, 1906, after returning from work a delegation of strikers called at his house and threatened him with personal violence if he did any work at the foundry outside of working on a machine. (Notary public, Ramsey County, Minn.)

IOLA, KANS.

The evidence in this case wherein the plaintiff, The United Iron Works Co., of Iola, Kans., invoked relief from the peonage of unionism, presents an illustration of the necessity and the efficacy of the extraordinary remedy of injunction before and after judicial application.

Before restraint, the iron molders' union strikers in their efforts to compel the plaintiffs to comply with their demands relied on their might, and the perverted assumption of a right to employ various forms of fraud, intimidation, force, and violence against the nonunion molders.

After restraint there was an instantaneous cessation of all riotous acts by the men on strike.

D. C. Morrow testified that on July 17, 1906, one Beler, the corresponding representative of the iron molders' union, accosted him and said, "Did you ever jump sideways; you will jump sideways, backwards, and all kinds of ways." And on affiant asking who would make him do it, said Beler replied: "The iron molders' union, the greatest organization in the world." Beler then made a motion to strike affiant. (District court, Allen County, Kans.)

George K. Engler, testified that on June 25, 1906, on leaving the train to go to work was met by Beler and other molder strikers, also by the chief of police and three officers who searched him for firearms. On coming from the foundry he was met by strikers, and asked not to go to work. Strikers' pickets tantalized him, called him "scab" and cursed him. On July 10 one of the iron molders' pickets told him that if he intended to go back home he had better go soon. A deputy sheriff on several occasions about town and at the works said he "wanted to waylay and slug" affiant. Affiant was taunted by Beler, who said: "Fatty, don't you get tired and want to lie down and sleep; some day you will lay down and never get up." (District court, Allen County, Kans.)

Claud Umphries, testified that on July 15, 1906, Beler, a striking molder, met affiant and told him he intended to give him a licking. Affiant says the strikers of the iron molders' union had from two to six pickets about the plant, who repeatedly ridiculed him and tried to intimidate him with threats so that he would quit work and break his contract with the company. He was called vile and scurrilous names and "scab" and on one occasion when affiant's wife and brother were with him Beler threatened to "lick" him. (District court, Allen County, Kans.)

C. F. DeBrunner, testified that on July 15, 1906, he held a conversation with Beler in which Beler said he "wished he had a chance to get a poke at those fellows; that things were shaping themselves until it would not be long until he could get a chance at some of those fellows; he was only waiting for a good opportunity." On another occasion affiant had a talk with one Fox, an iron molders' striker, who stated that the iron molders' union was the strongest in the United States; that there was no question but it would win out; by its strength it could force the company to the wall, if necessary to win their point. (District court, Allen County, Kans.)

D. Perkins testified that on June 25, 1906, he came to Springfield from Mississippi under contract to work for the plaintiff company, and as he got off the train one Beler, a striking molder, took hold of his arm and asked if he was a molder. Affiant made an evasive reply, and then Beler said: "You are; and the best —— thing you can do is to get right out of here." On other occasions strikers persistently tried to get him to break his contract, doing and saying many things to annoy and dishearten him and force him to quit work. (District court, Allen County, Kans.)

Wiley Franklin testified that on June 25, 1906, came to work for plaintiff company under contract and on arrival was met at the train by members of the iron molders' union on strike, some of whom told him he had better get out of town. On one Sunday night three of the strikers talked to affiant and said they would do anything they could to help affiant to beat the company out of some money and wanted affiant to make a proposition to leave Springfield. Affiant made said strikers a proposition, which was not accepted because the strikers had no money. Thereupon the strikers wanted affiant to go back to work, promising him that they would make up some sham telegram or other thing, representing it to come from affiant's wife, asking for money or alleging sickness, so that the company would advance money on such scheme. (District court, Allen County, Kans.)

Daniel Grant testified that he was followed on going home from work by a striker who told him he had better go on home; that the strikers were always after him to quit; wanting to ship him out of town, promising to get him another job. On July 16 Beler, one of the striking molders, while at the molders' headquarters quarreled with affiant, shook his fist, and wanted to fight him, saying he could whip both affiant and his brother. On another occasion one Ross insulted affiant's sister as she sat on the porch of her home with another lady by pointing out to them and saying, "Here's where them scabs live." Strikers frequently called "scab" at and say insulting things to annoy, and crowd affiant off the sidewalk. (District court, Allen County, Kans.)

C. J. Champieux testified that from May 2 to July 17, 1906, iron molders' strikers talked to him, made insulting remarks, and called him "scab." On one occasion Beler told affiant that he (Beler) was a better man morally, physically, or any other way than affiant. Strikers tried to induce affiant to break his contract with the company and, failing in that, ridiculed, insulted, and intimidated him. (District court, Allen County, Kans.)

Elmer May, testified that since the inauguration of the strike the striking molders have maintained pickets at the entrance of the foundry morning, noon, and night; have frequently stopped affiant and called him scab and other names. Strikers constantly interfered with him going to and from work, in a manner to annoy and make it difficult for affiant and other nonunion men to work for the company. (District court, Allen County, Kans.)

James Smith, testified that on coming from work, members of the iron molders' union walk along with and try to get him to quit; ridiculed and called him "scab." On July 15, one Beler, said to affiant that he was no better than a criminal. Affiant further avers that the strikers did not hesitate to use vile and threatening language, even in the presence of officers and women. (District court, Allen County, Kans.)

C. O. Hearn, testified that on going from work in the foundry he was followed by strikers, who tried to get him to quit and break his contract with the company; threatened that he had a limited time to stay; made insulting remarks to him; called him "scab." On other occasions strikers told him if he did not quit work they would brand him all over the country; meaning that he would be blacklisted. His photograph was taken without his consent for the purpose of publishing it. Strikers continually made insulting remarks; acted in an insolent way and made intimidating statements, all of which made it a disagreeable and difficult thing to work for the plaintiff company. (District court, Allen County, Kans.)

Joseph Lafleur, testified that the strikers called him "scab;" photographed him and annoyed him and his companions in every conceivable way in order to induce them to quit work for the company. On one occasion, one Beler said, "Joe, see that, that's blood from your boss." Affiant further avers that the strikers persistently kept up the calling of names and making insulting remarks to the nonunion molders; that the strikers' headquarters are near the works in what is termed a "jigger" in Kansas, and that there is always a crowd of strikers around who make insolent remarks to the workmen as they go to and from work. (District court, Allen County, Kans.)

B. J. Marple testified that on July 12, 1906, on his way down town he met a crowd of strikers, among whom was one Fox, a striker, who said, "You are a ——— liar." Thereupon he grabbed affiant. After the police came up the encounter was stopped. Fox said, "I'll see you about this again," adding that he had affiant spotted. (District court, Allen County, Kans.).

John Grant testified that the strikers told him he better not work at molding, as he would not stay long. Strikers called him "scab" and other names frequently. On July 14 one Beler met affiant and two companions and said, "There goes three scabs." "I'll knock your ——— block off." Strikers walked past affiant's residence, stating that was where a bunch of them "——— scabs" lived. Affiant at other times was called "scab" and other insulting names and told by strikers they were going to ship him out and subjected him to ridicule and insult the nature of which interfered with his duties to the company as well as his peace and quiet. (District court, Allen County, Kans.)

W. W. Riley testified that when the strikers found out he would not quit work for the plaintiff company they called him "scab," vile names, and threatened him. One Speath, a striker, passed him on his way to work and said, "Come back here, Riley; I can whip you." Affiant was frequently called "scab," liar, and subjected to insulting remarks near the foundry when several of the strikers were together; continually annoyed; followed until he was almost driven by their treatment to give up his job; that strikers kept the factory picketed by from two to six men all the time and said to him, "Here is Riley, the scab liar;" that he better quit work, because when the strikers got back to work he could not get a job anywhere in town. (District court, Allen County, Kans.)

E. S. May testified that the striking molders talked insultingly to him; made various statements in the way of threats. On one occasion Beler, a striking molder, said that if he had affiant in a box car he would soon see who was best man. Strikers called him unprincipled and "scab" frequently; that strikers have said to other nonunion molders, "I'll get you," meaning a threat of physical violence; that they had affiant spotted, meaning affiant was to be blacklisted or kept from getting work from other persons; and that the strikers kept pickets on duty constantly annoying the men, making insulting and intimidating remarks to them; that strikers passed affiant's residence, making the remark, "There is where some of the scabs live." (District court, Allen County, Kans.)

C. D. Clark, testified that on one evening a striking molder came up to him, stating that he (striker) was a delegate from the union and wanted to talk with affiant; finally became angry and made insinuating remarks about "scab." On another occasion six of the strikers met him on the sidewalk and called him "scab"; that later Beler

said to affiant, "You may get right after awhile; if we wanted to, we could get enough to go down there and clean the whole bunch of you up." On other occasions strikers tantalized and annoyed affiant, called him names, and said they would have his picture taken and would send it to headquarters and it would be placed in a circular and distributed so that he would not be able to get work or business. Affiant further avers that morning, noon, and night strikers have abused or annoyed him, blocking the walks or other places, all to his annoyance and inconvenience. (District court, Allen County, Kans.)

M. L. Allstot, testified that he is the owner of a grocery store near the foundry; that he observed the strikers, pickets, or patrol numbering from three to eight men; that whenever the men went to or from work morning, noon, and evening the pickets would go near the entrance of plaintiff's foundry and wait for the nonunion men; walk with them and talk to them, going clear to their boarding house with them; heard them hallow at the men and call them "scabs" and other vile, obscene, and opprobrious names. Affiant further avers that strikers would at times congregate in crowds on the corner near the works and make it very unpleasant for any persons passing; kept this up every day, especially when nonunion men were going in or coming out of the foundry, but that since the injunction came on there has been a great change in the situation around the works; that after the injunction came on everything was quiet and peaceful where before it was noise, until the strikers got to be such a nuisance that affiant remonstrated with them, for which he was afterwards informed by the strikers they had taken his (affiant's) picture along with the rest. (District court, Allen County, Kans.)

Louis Clayton, E. S. Moore, C. J. Malone, J. Deck, W. M. Rhodes each testified that the iron molders' strikers maintained a patrol or picket in the street of from three to five men near plaintiff's works; observed strikers congregated and called to the workmen the word "scab"; ganged together, talking and acting in a boisterous and unpeaceable manner; that when the men went to and from work a crowd gathered and much jostling, hallowing, derision, and even vulgarities and profanity was indulged in, making the corner boisterous, rough, and disagreeable, so that ladies or children could not pass without some form of embarrassment. Affiants further aver that since the injunction was issued and served there is all the difference possible, like the difference between a storm and a calm, and that since its issuance everything is quiet and peaceful; no congregation or crowds or ganging together of boisterous persons obstructing the streets and sidewalks, howling and abusing people; that the injunction worked a marvelous change and made the vicinity of the foundry a well-demeaned locality compared with what it was before. (District court, Allen County, Kans.)

FINDINGS OF THE COURT.

The Hon. Oscar Foust, judge of the District Court of Allen County, Kans., in which court the foregoing affidavits were filed in support of a petition for a temporary restraining order, in his findings on the evidence presented, as applicable in this case, quoted from the opinion of the eminent jurist, Judge J. McPherson, of the United States Circuit Court, E. D. Southern District of Iowa, handed down in the case of the Atchison, Topeka & Santa Fe R. R. *v.* Nathan Gee et al., in part as follows:

"The evidence shows the parties in the employ of the company have been assaulted by the strikers for no offense, for no wrong, for no crime; employees have been denounced and called "scabs" and the most vulgar and profane names applied to them for the sole reason they elected to work when it was offered them of a satisfactory character and at prices agreeable.

"A system of pickets around and near to the shops of the company has been kept up by all the accused and others. The pretense of this picketing is the right to converse with the new employees and persuade them to quit, and the further pretense that they desire to see who are at work. Details of pickets taking turns at all hours when men are going to and from work, making grimaces, and at times acting as if violence were intended and at times uttering profanity and vulgarity.

"When men want to converse or persuade, they do not organize a picket line. When they only want to see the men who are at work, they go and see and then leave, disturbing no one physically or mentally. Such picketing as is displayed in the evidence in the case at bar does and is intended to annoy and intimidate.

"The peaceful law-abiding man can be and is intimidated by gestures, by menaces, by being called harsh names, and by being followed or by being compelled to pass by men known to be unfriendly.

"The test of manhood and the rights of man and property is not to be measured by braggarts or bullies, vulgarity, or profanity, and the saloons must not be the place where supposed rights are to be decreed, as the evidence in this case shows has been many times attempted by some of those on strike.

"There can be no such thing as peaceful picketing any more than there can be chaste vulgarity, or peaceful mobbing, or lawful lynching.

"The court has no desire to be severe in its judgments, and particularly to those badly advised, but has a concern that peace and quiet prevail and that a state of serfdom shall not exist by a so-called system of picketing by one crowd of men over another. No self-respecting man will submit to it, nor is he compelled to. He need only apply to the courts, State or Federal, and he will be given an order to end it; and when such orders are given they must and will be enforced.

"It must always be borne in mind that this is a Government of law and not of men; that all rights of persons, whether members of labor unions or not, are sacred to them, and every act of persons, either individually or collectively, that has for its object the spbversion of such rights, is unlawful; and if accompanied by violence, intimidation, force, or other unlawful means, it becomes the duty of the courts to intervene."

DETROIT, MICH.

A veritable epidemic of strikes in the metal crafts seriously disturbed the industrial equanimity of Detroit in 1907. Machinists, ship workers, boiler makers, pattern makers, iron molders, and core makers, polishers, buffers, and stove-plate molders, all were afflicted with the strike fever, the iron molders more than any other crafts. Strikers, congregating in saloons, were inflamed to rioting and dynamiting of plants while out of work; street cars carrying nonunion workmen were "held up" in real outlaw fashion in the public thoroughfares; nonunion men were repeatedly coerced, intimidated, and beaten. Although strikers admitted in open court the commission of offenses, juries would not convict them. When sentenced by a court, assaulters of nonunion workmen were released or given only light fines, which were paid by the unions. The Detroit Journal, on June 20, 1907, announced in its headlines that "Strikers rioting is exhausting the police" and, as a last resort, injunctive relief was sought by employers.

Extracts of portions of the affidavits of molested independent workmen are here given; but it should be borne in mind that these refer only to lawlessness of iron molders.

George W. John testified that on August 17, 1907, in attempting to serve injunction subpœnas, one of the defendants said to him: "You're too ——— ——— fresh, anyhow"; then struck him a sharp blow in the chest. Another striker assaulted him and a bottle was thrown at him. The first assailant said: "That's right, kill the ——— ——— ———; he's no good, anyhow; I don't need to take an injunction from anybody; I don't give a ——— who he is." And thereupon he was struck a vicious blow on the left, and the second assailant struck him a vicious blow on the right side of the neck, knocking him to the curb. (Circuit court, Wayne County, Mich.)

Charles Eng testified that on October 10, 1907, on going to work saw three men, one of whom crossed the street and used violent and threatening language and called him scab and other vile, obscene, and scurrilous names; and said that they "would get him." A brick was thrown which struck and bruised him severely. (Circuit court, Wayne County, Mich.)

John Clark testified that on August 6, 1907, on his way to work met three of the striking iron molders who tried to get him to quit work, and on his refusal one of them struck him a severe blow back of the ear, felling him to the ground. A policeman appearing, his assailants ran away. (Circuit court, Wayne county, Mich.)

Victor E. Gottlieber testified that on August 10, 1907, on his way to work saw a large crowd of striking molders aggregating 50, who rushed upon him. Affiant ran and some one of them threw a rock at him, striking him on the head and cutting a deep gash, one of them calling out: "There he goes; get the ——— ——— ——— and kill him." Affiant escaped to the works in an automobile. (Circuit court, Wayne County, Mich.)

Clyde Slagle testified that on August 10, 1907, he saw 500 of the members of the iron molders' union and sympathizers congregated near the works. He heard repeated threats from men in this crowd, such as: "We ought to dump the ——— plant into the river." That employees of the plant were brought to it in an automoblie and threats were made to throw lumber in front of it. He heard members of the crowd call the men in the automobile "scabs." About 15 police officers made concerted advance to disperse the mob. (Circuit court, Wayne County, Mich.)

Joseph Six testified that on August 5, 1907, on returning to his home from the foundry, he was assaulted, pulled from a street car by 20 men, struck heavy and vicious blows from all sides and pounded until he became unconscious. One of his ribs was broken. On becoming conscious a stranger helped him to a police station and he was taken home. On August 10, 1907, on going to work he encountered a crowd of 50 striking molders, who surrounded and assaulted him; many of them struck and

kicked him. He was hit in the nose, mouth, and eyes. One of the strikers said to him, "If you don't stay out of that shop we'll kill you." He escaped and afterwards was taken to the foundry in an automobile. (Circuit court, Wayne County, Mich.)

Frederick A. Cowen testified that on July 22, 1907, he saw one of the striking molders pick up stones and throw and hit the foundry with them; that window glass was broken. Two other strikers were with the stone thrower at the time. (Circuit court, Wayne County, Mich.)

Fred Barnes testified on August 29, 1907, that one of the striking molders boarded a street car with himself and other nonunion molders on their way home, jostling and shoving the men about, muttering obscene words in a threatening tone, shaking his fist at him, and lowering and scowling at him in a ferocious manner. (Circuit court, Wayne County, Mich.)

HOUSING OF NONUNION WORKMEN.

Before the issuance of the injunction on behalf of the Murphy Iron Works this plant was in a continuous state of siege, it being necessary to build a stockade about the high fence already surrounding the plant and to post guards night and day to repel attacks of the strikers; the firm also was compelled to furnish sleeping quarters and meals inside the plant for the nonunion workmen. The drivers of wagons bringing provisions for these workmen were continually subjected to assault, abuse, and intimidation by strikers constantly picketing and patrolling the plant making hostile and violent demonstrations.

Percy Grovemiller testified that on October 5, 1907, on his way home from the foundry one of the striking molders followed behind him closely for some distance and finally addressed to him a volley of vile and unprintable language, ending with the threat: "I'll knock your head off; I'll kill you." (Circuit court, Wayne County, Mich.)

Stephen Fox testified that on October 5, 1907, on his way home from the foundry he was followed by two striking molders for eight or nine blocks, who addressed to him vile and unprintable language, threatening him and shaking their fists in his face, attempting to prevent him from entering his home where the vile and scurrilous language was repeated. (Circuit court, Wayne County, Mich.)

Otto Dickson testified that on October 5, 1907, on leaving the foundry three of the striking molders approached and said: "What have you got in your pocket?" This was accompanied with vile and unprintable language and another striker said: "Those fellows haven't got anything on them; get after them." These same men followed affiant, frequently insulting and threatening him. (Circuit court, Wayne County, Mich.)

Paul Globich testified that on January 20, 1908, on leaving the foundry one of the striking molders caught him by the hand and held him and said: "Well, get your money and get out. We don't allow any Detroiters to work down there." This striker called to two others, saying: "John, come out here, we've got him now." On January 21, 1908, he was accosted by another man who said: "Well, I see you are working there again; how long are you going to stay there? You get out to-morrow night, or I'll let you know whether you can work there or not." This man followed affiant some distance continuing the same intimidating and coercive language. (Circuit court, Wayne County, Mich.)

Frank Hodap testified that on April 4, 1907, he was followed to the street car by two union pickets, who told the conductor, pointing at affiant: "There goes a couple of scabs." On April 17, 1907, a mob of 100 or more strikers followed him, calling out: "Scab" and vile and unprintable language. On April 18, 1907, as affiant was entering his hotel he was struck by one of the strikers with his fist. (Circuit court, Wayne County, Mich.)

George Gill testified that on April 17, 1907, on going home from the foundry he was followed by a large crowd of pickets and strikers who called him "scab" and addressed to him other language too vile and scurrilous to print. On April 18, 1907, about 25 strikers followed him to his hotel calling profanely after him "scab" and other vile language. The crowd was led by a striking molder whom affiant recognized. As he entered his hotel one of the crowd struck him a violent blow on the back of the neck. Later on the same evening he was warned that there were 8 or 10 strikers in the barroom of his hotel threatening to find his room and do him harm. (Circuit court, Wayne County, Mich.)

John Finch testified that on April 17, 1907, he was followed from the foundry to his boarding house by a crowd of 100 strikers and sympathizers, led by a striker whom he recognized. He was called "scab." The crowd gathered about his boarding house and called to the keeper: "Throw the scabs out." The keeper did so and in seeking

shelter elsewhere he was followed by the crowd which called out profanely: "We will get you yet; dig into him; take a poke at the bastard; look at the ——— ——— scab." On April 18, 1907, a number of strikers followed affiant calling out: "There goes that long-legged scab from Columbus." Thereafter, in fear, he slept and ate within the walls of the company's plant. (Circuit court, Wayne County, Mich.)

Truman Jones testified that on April 18, 1907, on leaving the foundry he was followed by a mob of strikers who called out: "Look out for the scabs; get out of the way, the scabs are coming." They followed him to his boarding place and threatened him. (Circuit court, Wayne County, Mich.)

John Newell testified that on April 17 and 18, 1907, he was followed on the streets by a mob of strikers who called him vile names and threatened him. (Circuit court, Wayne County, Mich.)

William Baker testified on April 27, 1907, that he had been followed by molders' union strikers who told him on the day he went to work that "It would not be a wise thing for him to work for that company." On April 18, 1907, he was followed to his boarding house, a distance of 1 mile, by a crowd which hooted and yelled about the house, causing the keeper to refuse to harbor him longer. He was followed and stopped and asked by one of the strikers: "Where in hell was you born? I will clean up with you." (Circuit court, Wayne County, Mich.)

Thomas B. Fenton testified that on April 17, 1907, he was followed on a street car, insulted and annoyed by a mob of strikers; was cursed, assaulted, and struck on the head by a blunt instrument; his clothing was torn and he was called vile and scurrilous names. He was also turned out of his boarding house on account of the actions and sayings of the strikers. When assaulted by the strikers he was knocked to the ground and they said to him: "——— ——— scab, we have got you now; we will fix it now so that you won't go back to work." (Circuit court, Wayne County, Mich.)

Richard Keeley testified that on April 17, 1907, about 50 strikers followed him to his home, hooting and yelling at him; on April 18, 1907, a similar crowd followed him, calling out to him: "We'll get him before he leaves." He was called vile and scurrilous names. On this same date he was again followed to his home by the strikers who attempted to enter and search the house, offering to fill the house with union boarders who would pay full price for the rooms if she would turn out the nonunion men. The strikers remained about the house creating a disturbance throughout the greater portion of the night. Thereafter affiant left this boarding place and lived within the walls of the company's plant. (Circuit court, Wayne County, Mich.)

George Carter testified that on April 18, 1907, he was followed to his residence by a crowd which crossed backward and forward in front of him calling: "We will get you, you ——— ——— scab; we will get you later on." One of the strikers insisted of the keeper of the boarding house upon going upstairs and offered if she "would throw those fellows out" they would buy the house. Said crowd prowled around the house the greater portion of the night. Since that day, affiant avers, he remained inside the gates of the plant, eating and sleeping there, unable to go about the streets of the city through fear of personal injury at the hands of the striking molders, their associates and confederates. (Circuit court, Wayne County, Mich.)

Otto Dickson testified that on April 18, 1907, he was approached by striking unionists, one of whom insisted upon talking with him against his expressed wish, and who thereupon turned to the crowd and said: "This man is getting pretty fresh; we will have to do something with him." Thereafter this crowd, to the number of 75, followed him and yelled at him in a manner inspiring fear of bodily injury; followed him to the door of his residence, congregating on the outside, hooting and yelling, since which time affiant has been compelled to remain within the works, eating his meals and sleeping there, as well as plying his trade, in fear of serious injury should he go upon the street. (Circuit court, Wayne County, Mich.)

Harry Dougherty testified that on July 8, 1907, he was assaulted by a striking molder, two other strikers being present at the time; he was dealt a severe blow in the right eye, which knocked him to the floor; his face was marred and blacked for several days as a result of this assault. On July 16, 1907, affiant was followed by a mob of 50 men, among whom was one Bell, a striking molder. Four policemen endeavored to protect affiant, notwithstanding which the mob threw dinner pails at him, hooted and jeered at him, calling him "dirty scab" repeatedly, with other vile and unprintable names Affiant was followed to his home by the mob, which loitered about his house until the police dispersed it. (Circuit court, Wayne County, Mich.)

John Hill testified on July 18, 1907, that previous thereto the foundry where he worked had been picketed and patrolled morning and night by from 5 to 75 striking union molders and their sympathizers, under the leadership of three men known to him. These men on several occasions said to him "We'll get you if you don't quit work down there." They cursed him and called him a "dog" and a "scab." On

July 16, 1907, on leaving work at the foundry a large crowd of striking unionists were in wait for him and his fellow workmen and called out "Here comes the scabs." The crowd followed and threatened and hooted affiant all the way to a street car, pointing out and calling out "This is a bunch of scabs; that's one of the scabs; let's get him." On his arrival at home a crowd of 100 people gathered, making demonstrations, shouting violent threats, until police officers charged the mob and dispersed it. (Circuit court, Wayne County, Mich.)

Charles Brinker testified on July 18, 1907, that previous thereto many strikers picketed and patrolled the foundry where he worked; two striking molders known to him appeared to be the leaders; these men said to affiant: "You will get your —— —— head pushed off." He was called "scab" and "dog." On July 16, 1907, on leaving work in the foundry, a crowd of striking molders and sympathizers followed, one of whom said: "Here comes the scabs," and called to the motorman of the street car: "Don't stop for this gang of scabs." On boarding the street car the strikers posted themselves on the front and rear platforms, pointing and calling out in a loud voice: "This is a bunch of scabs." Affiant avers two striking union molders followed him home, took the number of his house, remaining to patrol it, and telling all passers by that at that number one of the scabs was living. (Circuit court, Wayne County, Mich.)

Herbert Rounsifer testified that on July 16, 1907, on leaving work in the foundry, 50 to 75 striking molders and their sympathizers yelled at him and his fellow nonunion workmen, "scab," "snakes," etc. That 20 of the striking molders boarded the street car, continued to abuse him, and calling himself and companions "snakes," etc., and saying: "Here are the Great Lakes scabs." The strikers behaving riotously and frightening a number of women off the car. One of the striking molders approached him threateningly and said: "I will get you yet, you long-legged ——— ——— ——— ———." The strikers followed affiant to his home and one of them said to the keeper of his boarding house: "Do you know that you are boarding a lot of scabs?" A large crowd remained outside the hotel until dispersed by the police. (Circuit court, Wayne County, Mich.)

Joseph Ostendorf testified on July 18, 1907, that on leaving the foundry where he worked, two striking molders approached him in such a threatening manner that he vaulted the fence back in the company's yard. On returning to the street with a guard he was met by 15 threatening molders and then 8 more who came from a saloon. While proceeding through this crowd some one, without warning, struck him a violent blow in the mouth, cutting him severely. (Circuit court, Wayne County, Mich.)

Charles Westfield testified that on July 16, 1907, on leaving the foundry he was forced to pass through 60 striking unionists surrounding the gates of the works, 30 of whom boarded the street car with him, calling in loud voices: "There is the king of the scabs." This was accompanied by vile and scurrilous names. One striker whom he recognized struck him a blow in the face with his fist, for which his assailant was arrested, and as he was being placed under arrest, called out in a loud voice: "You done this, you —— —— scab; I'll get you for this." On July 12, 1907, on leaving the foundry he met a large crowd of striking molders which hooted, jeered, and called out: "There is a bunch of scabs," and accompanied this with vile and unprintable language. Affiant further avers that he has been followed by crowds of striking unionists, their associates, and confederates, and on many occasions they made threats of personal violence, such as: "We'll get you yet; we'll get you before you leave; we'll beat your —— —— brains out." (Circuit court, Wayne County, Mich.)

The Great Lakes Engineering Works was in a state of siege before the issuance of the injunction. The nonunion men for a long period were compelled to eat and sleep within the walls of the plant and guards were posted to check the riotous assaults of the striking iron molders. The nonunion men had previously boarded at various houses about town, but because of the riotous, threatening, and intimidating conduct of the strikers, some were ordered out by their landlords and others left through fear of personal injury. The nonunion men were followed, jeered at, insulted, and threatened, and on numerous occasions bodily assaulted by the striking molders, and during these numerous encounters herein described individual strikers, as well as mobs of them, continually made use of such vile, indecent, obscene, scurrilous, and profane language, impossible to be printed herein.

ON THE PACIFIC COAST.

The strike territory of the iron molders was not limited. This is wholesomely exemplified in the widespread strike inaugurated by this craft in the foundry centers on the Pacific coast in the spring of 1907. San Francisco, Portland, Seattle, Tacoma,

Everett, and inland cities suffered the propagation of this species of guerrilla warfare by the union of iron molders, which finally concentrated its forces in Seattle. Extracts from affidavits of molested independent workmen are presented herewith to indicate in a slight measure the character of coercion and intimidation utilized by the strikers.

Robert C. Buchanan testified that on May 6, 1907, a striking molder intercepted him on his way from work and told him that unless he quit work for the company the union would not let him live to finish a certain cylinder. On May 7, 1907, the same striking molder, with another man, assaulted, struck, and beat him, cut his lip, and struck him on the head. On May 8, 1907, another striker followed him and threatened him that if he did not quit work the molders union would "put him on the bum," meaning to beat him until he was unable to work. (Superior court, King County, Wash.)

Thomas Buchanan testified that he was urged by strikers to quit work for the company and offered a free union card and other employment. On refusing such offer, he was called "scab," a name which is understood among laboring men as being a person unfit to associate with union men; that the effect of the name "scab" tends to coerce and intimidate men into joining unions and join in strikes when they occur. (Superior court, King County, Wash.)

Gus Holmes testified that he was urged to quit work for the company by strikers, who offered him a free union card and other employment. On refusing such offer he was called a "scab," a name which is understood among laboring men as being a person unfit to associate with union men; that the effect of the name "scab" tends to coerce and intimidate men into joining the union and join in strikes when they occur. (Superior court, King County, Wash.)

Walter R. Brown testified that on May 6, 1907, he was intercepted by seven striking molders and asked to quit the employ of the company and join the union. He refused, and on the same evening he was assaulted by three men, struck and thrown to the ground. He escaped by crawling under a railway box car near by. (Superior court, King County, Wash.)

Charles Sayles testified that many of the strikers constantly harassed and annoyed him going to and from work in an attempt to get him to quit work. The striking molders threatened to "place their brand on him" meaning "scab." (Superior court, King County, Wash.)

Oswald Hempal testified that on May 9, 1907, on going to his room was accosted by two strikers, one of whom assaulted, struck, and beat him on the side of the head. (Superior court, King County, Wash.)

George Stewart testified that he was stopped by molders' strikers, pickets, and one of them said: "I am sorry for you when we go back." They declared they would "fix" those refusing to join in the strike. Another picket said to him: "We are going to stop you from getting any molders; if you get any molders here, we'll get them." Strikers urged him to join the strike, saying they needed him to help cripple the works; if he refused he would have reason to regret it. (Superior court, King County, Wash.)

C. R. Hooper testified that he is an electrician for the company and a union man without grievance against it. He refused to join the strike and was told by the strikers he would have to suffer if he failed to strike; one of the strikers said: "We'll fix you if you don't come out," that he would be "fixed" if he tried to get into any other line of work, even a clerk in a dry goods store. He was called "scab" and other contemptuous epithets. (Superior court, King County, Wash.)

L. H. Tenney testified that two of the strikers climbed over the fence of the plant and he ordered them off; that later one of them met him on the street, abusing him in presence of a large number of people, saying, "You wait; we will fix you," and adding words of extreme vulgarity. (Superior court, King County, Wash.)

John Peterson testified that the walking delegate of the machinists' union offered to pay him $7 per week if he would quit work, and on his refusal said, "The time will come soon when you must come into the union." (Superior court, King County, Wash.)

RUTLAND, VT.—HIRED SLUGGERS.

A potent factor of the union of iron molders in fighting its strikers has been the hired slugger, usually drawn from the ranks of the criminal class or quasi prize fighter.

Extracts from affidavits made during the course of a molders' strike at Rutland, Vt., are presented below as tending to substantiate the use of these methods by this union.

Attention is also called to the connection between this case and the following one under the heading "Paterson, N. J."

Axel Lindquist, a nonunion molder employed by the F. R. Patch Manufacturing Co., Rutland, Vt., testified that on April 18, 1904, on going home from the post office, when in front of the city hall he was approached from behind by two men and struck

by a hard instrument, fracturing the right cheek bone. He was felled to the ground and again struck twice with a hard instrument and rendered unconscious. His knee was cut deep with some sharp instrument. For four weeks he was unable to eat solid food and confined to the house for a long period. (Bailey, justice of the peace, Rutland, Vt.)

James M. Hamilton, physician, testified that on April 19, 1904, he examined affiant Lindquist and found him suffering from 13 wounds on his head and face; also a wound in the right knee, 1⅝ inches long; an incised wound, requiring three stitches to close it. On April 25 affiant again examined Lindquist and found he was unable to open his mouth except to a very limited degree. (Bailey, justice of the peace, Rutland, Vt.)

Frederick T. Fenn testified that on April 18, 1904, at about 8.40 p. m., he saw two men exchange hats, each putting on the hat the other was wearing and then go toward the city hall. Shortly afterwards he heard a cry of distress and saw a man lying on the ground and saw another man standing over him and kick him. The man doing the kicking was one of the men whom affiant saw changing hats. (Bailey, justice of the peace, Rutland, Vt.)

Edward Bassett states that on or about May 20 or 21, 1904, a man by the name of Gill and another by the name of Judge, while in West Troy, N. Y., told him that they assaulted a man on the evening of April 18, close to the city hall in Rutland; that each of them had a "black jack" and a pair of "knuckles" which they used to injure the man; left for dead and had to "skip" the town; that they went up to Hubbard's room over the Brunswick Hotel and washed the blood from their hands and face; that one Sullivan gave them $6 to get out of town. They also told affiant that they had done several others up; that they were in the employ of the iron molders' union; that the union kept them with the understanding that their bills and expenses would be paid. (Statement of Edward Bassett to prosecutor, Rutland, Vt.)

F. R. Patch testified that on March 25, 1904, he employed one John Judge, iron molder, to work in the foundry of the F. R. Patch Manufacturing Co.; that said Judge did work therein until April 12, 1904. On March 4, 1904, affiant also employed one Thomas Gill, iron molder, to work in said foundry, and that said Gill did work therein until April 13, 1904. (Bailey, justice of the peace, Rutland, Vt.)

PATERSON, N. J.

Occasionally it would seem that the rebukes administered by the law to the lawless element of the iron molders' union in the past few years of turbulent strikes have not served to sufficiently impress upon the leaders of this organization that slugging practices, when employed as a means of preventing a man who wants to work from taking a job another man vacates or refuses, will no longer be tolerated without an earnest effort to punish all offenders.

A strike of union molders began at the plant of the McNab & Harlan Manufacturing Co., in Paterson, in October, 1907. Independent molders and coremakers were of course employed to take the places of the strikers.

EVIDENCE AND TRIAL.

On May 13, 1908, as James Farquarson, a nonunion molder resident of Paterson, in the employ of McNab & Harlan, was going to his work at 6.20 a. m., he was approached from behind without warning and dealt a murderous blow on the back of the head with a heavy iron bolt in the hands of a man then unknown to him. The blow fortunately did not prostrate the victim long enough to permit the assailant to escape. Farquarson ran after his assailant, and finally attracted the attention of a citizen, who halted and held him until the police appeared. At the station the assailant gave the name of John Brown.

This slugger was brought to trial on June 18; his plea was self-defense, and he was the only witness in his own behalf. His testimony to sustain his plea was of such a flimsy character as to furnish his counsel with absolutely nothing calculated to convince a jury of his innocence. In fact, he admitted the assault and identified the weapon; claimed he was looking for work, met Farquarson and asked him the route to Lyndhurst; that Farquarson immediately became violent, drew a knife and struck at him, then he struck Farquarson and ran, throwing the bolt away as he ran, pursued by Farquarson with a drawn knife. Farquarson is a small man, his assailant large and muscular.

On cross-examination the defendant testified that he brought the bolt all the way from Florida to protect himself with; had it with him in New York before arriving in Paterson. Examination of the bolt showed conclusively it had been picked up

shortly before the assault was committed. This is a sample of the consistency of the story of this agent of the iron molders' union. It was wide of reason, and the same old subterfuge resorted to by the union slugger when cornered on the witness stand.

UNION OFFICIAL CONNECTION.

One has but to scrutinize the meetings and conferences of certain officials of the molders' union in New York; the handwriting of a letter found on the person of this defendant at the time of his arrest, directing him to meet a strike committeeman at a saloon; the supply of $500 cash bail by the molders' union, as well as the furnishing of $1,000 for the defense of this slugger; the pass found on the defendant's person issued to John Judge, molder; the photograph of the defendant "Brown" taken by the police and identified in the office of the railroad company where the pass was issued as that of John Judge, formerly of Worcester, Mass., and mentioned in affidavits shown herewith under heading of "Rutland, Vt.," to find evidence of the connection between this hired slugger and officials of the molders' union.

MEADVILLE, PA.

The Meadville Malleable Iron Co. closed down its plant in 1906 for a period of three weeks. On attempting to operate again a strike was called, and a conspiracy entered into by certain of the strikers and their sympathizers to prevent operating the foundry independent of the dictates of the iron molders' union. Evidence of the usual violent and intimidating methods employed by the strikers appears in the abstract of the findings of fact by the court wherein the said firm was compelled to ask for injunctional relief.

FINDINGS OF FACT BY THE COURT.

Toward the close of 1905, or in the early part of 1906, the relations between the employer and employees had become somewhat strained, and in February, 1906, plaintiff closed its works for about three weeks, at the end of which time plaintiff opened its works as an "open shop," employing, or offering to employ, both union and nonunion labor.

The defendants, as individuals, associated with some others and upon the authority of the defendant union, associated and confederated together for the purpose of preventing plaintiff from procuring sufficient competent laborers to operate its plant and to induce all union men and such other employees as they were able to refrain from working for plaintiff.

As a part of the means to accomplish such purpose they have established and constantly maintained, from the day following the opening of plaintiff's works as an "open shop" until the filing of this bill, a system of picketing covering the approaches to plaintiff's works.

On several other occasions the persons on picket duty, or those in their company and associated with them, have accosted employees of the plaintiff on their approach to or upon leaving plaintiff's works, and on some of said occasions have applied vile and approbrious epithets to said employees, at times calling them "scabs," a "husky bunch," etc., and declaring that they were "scabbing," because of their employment at plaintiff's works.

As a result of said confederation, association, and picketing, several assaults have taken place and breaches of the peace have occurred, in which some of the defendants and their associates have been engaged, as against or opposed to the employees of the plaintiff, and said breaches of the peace have been a direct result of the picketing conducted by defendants and their associates and the carrying on of the picketing was the direct and immediate cause of the assaults and breaches of the peace.

Assaults were numerous, and between William Heyer, a defendant, and George McMunn, at one time; between Heyer and Murphy and others at another time. Lawson and Zimmerman on return from work, were assaulted by strangers and their fellow workmen observed it and ran to their assistance and a conflict occurred between them and Schwartz, Kretler, and Wolfe. Kretler was not a defendant, but was associated with and did picket duty along with them.

There were other assaults of a minor importance, there even being one upon witnesses at the time of the hearing in this case, and it was very evident that the same was a result of the relations existing between these parties at the time.

Defendants should be restrained from carrying out their design to interfere with or intimidate employees, or prospective employees, by inserting false advertisements in newspapers.

The advertisement is not true. There was no lockout at the Malleable. Whatever the defendants may understand by a lockout is immaterial. The advertisement was for the general public, and the popular use and definition of the term lockout can never be strained to cover the conditions there actually existing. The plaintiff was seeking to run an open shop and the defendants were seeking to prevent it.

A decree was entered in accordance with the evidence presented, to become final unless exceptions were thereafter filed. Defendants must pay the cost of these proceedings.

NEW HAVEN, CONN.

Under the law in the State of Connecticut, prohibiting interference, one Frank McGee, business agent of the iron molders' union, was tried and convicted on four specific counts, and on September 25, 1907, sentenced to pay a fine of $100 and serve six months in the common jail of the county on each of the four counts by Police Judge Tyner, of New Haven.

An appeal from such judgment was taken to the common pleas court by said defendant, McGee, and he was again tried; this time by a jury, which for the second time found him guilty as charged and thereupon the court sentenced him, modifying the former penalty to one year in jail. In this trial a technical error occurred in the manner of drawing the jury, and on such error the case was appealed to the supreme court. This court found error as alleged and thereupon remanded the case for retrial.

A new trial was had, and on June 26, 1908, a new jury heard the case and convicted the defendant for the third time. Thereupon the court imposed a sentence of one year in the county jail.

In all these trials defendant McGee, was represented by able counsel, furnished at the expense of the iron molders' union.

WALDEN, N. Y.

A strike of iron molders, members of the union, was inaugurated at the plant of the Rider-Ericson Co., Walden, N. Y., in March, 1908.

The usual picketing, interference with independent workmen, and slugging tactics were brought into play by the strikers, culminating on April 22 in the brutal assault of a nonunion molder when on his way to work.

Four members of the iron molders' union were indicted by the grand jury and tried on June 13, 1908. All were convicted by the jury and sentenced by the court to serve six months in the Kings County (N. Y.) penitentiary.

The prosecuting attorney in presenting the case to the jury used these words:

"Such men as the defendants constitute the element that injures labor unions, becaus they are disorderly and unruly, and have not the brains to stand by men with brains."

In passing sentence the court thus addressed the convicted union molders:

"You have been convicted by the jury of what was unquestionably a very serious offense. * * *

"You approached this man in broad daylight in the street of a populous village, and I fear you had it in your heart to seriously injure him. You had already endeavored to bribe him to go away. In that you acted peaceably and were within your rights. You became incensed at his return. I fear that your demands for the $4 was only a pretense. You forcibly took this man away from his companions, severely beat him, and were only prevented from doing him serious injury by the prompt arrival of the police officer."

All four defendants were then sentenced to confinement in the Kings County penitentiary.

General Summary.

Number of affidavits and statements reciting various forms of violence, intimidation and coercion	400
Total number of injunctions asked for	34
Total number of injunctions granted	34
Approximate contempts charged	36
Convictions on contempts charged	32

Milwaukee alone furnished 22 cases of contempt charged and 22 convictions.

In addition to the above there was a vast number of instances where injunctions were necessary and should have been granted but were not.

EXHIBIT B.

STRIKES OF IRON MOLDERS, 1904 TO 1908, INCLUSIVE.

Summary of strikes supported by molders' union, showing their cause and the cost.

City.	Strike started.	Approximate number involved.	Cause of strike.	Approximate cost of strike to union and members involved.
Utica, N. Y.	Mar., 1904	200	Violation of New York agreement by union.	$292,500
Worcester, Mass.	June, 1904	119	Closed shop	274,400
Glassport, Pa.	July, 1904	105	Piecework extension	9,800
Ottawa, Ontario	do	72	Closed shop	13,700
St. Louis, Mo.	do	92	Refusal of men to accept piecework	
Do	July, 1906	89	For recognition of price committee and refusal to make struck work.	142,500
Philadelphia, Pa.	Aug., 1904	57	Refusal of molders to accept piecework	
Do	Oct., 1905	636	Demand by coremakers for recognition of union officers. Molders simply struck in sympathy with coremakers.	468,500
Do	Jan., 1908	45	Refusal of union molders to accept piecework	
Madison, Wis.	Aug., 1904	10	Closed shop	4,300
Cincinnati, Ohio	Sept., 1904	232	Open shop	147,681
Memphis, Tenn.	Oct., 1904	10	do	2,727
Trenton, N. J.	Dec., 1904	26	Closed shop	29,300
Hamilton, Ontario	Jan., 1905	24	do	
Do	Aug., 1906	34	Molders notified firm they intended to close shop all day each Saturday. National officer suggested demand of 10 per cent as bluff strike.	15,400
Racine, Wis.	Jan., 1905	90	Open shop	116,250
Montreal and Longueuil, Quebec.	Feb., 1905	50	Closed shop	
Do	Mar., 1907	67	Demand of union for control of molding machines; also abolition of piecework.	37,000
Do	May, 1908	20	Open shop	
Do	Aug., 1908	35	Canadian Pacific R. R.; open shop	
Kenton, Ohio	Feb., 1905	17	Limitation of output and disorderly conduct of union molders.	17,625
Minneapolis	Apr., 1905	17	Demand for recognition of union ratio of apprentices and discharge of extra boys.	76,400
Do	May, 1906	150	Closed shop and signed agreements	
Springfield, Ill.	Mar., 1905	24	Closed shop	1,876
Houghton, Mich.	May, 1905	12	Limitation of output	5,591
Sarnia, Ontario	June, 1905	21	Open shop	9,000
Claremont, N. H.	do	40	Men laid off temporarily account shop undergoing repairs; union demanded they be taken back at once, and upon firm's refusal strike resulted.	11,445
Halifax, Nova Scotia	July, 1905	20	Closed shop	5,983
Lancaster, Pa.	do	26	do	10,058
Sackville, New Brunswick	do	90	do	9,798
Boston, Mass.	do	19	do	
Do	Apr., 1906	300	do	58,900
London, Ontario	July, 1905	90	do	30,400
South Pittsburg, Tenn.	do	13	do	3,925
Franklin, Pa.	May, 1905	23	Demand for recognition of union ratio of apprentices and discharge of extra boys.	17,729
Pittston, Pa.	Sept., 1905	20	do	7,616
Zelienople, Pa.	do	90	Ordered by union officials to strike against piecework extension.	15,525
Tamaqua, Pa.	Oct., 1905	21	Closed shop	
Do	May, 1906	40	do	26,250
Dallas, Tex.	Oct., 1905	25	Open shop	5,726
Detroit, Mich.	Nov., 1905	30	Closed shop	
Do	Feb., 1907	30	Demanded reinstatement of apprentice boy discharged for limiting output under instructions from union molders.	42,500
Do	May, 1907	100	Closed shop and signed agreements	
Muskegon, Mich.	Nov., 1905	52	Closed shop	26,712
Bridgeport, Conn.	do	40	Limitation of output and disorderly conduct on part of union molders.	10,474
Indian Orchard, Mass.	Feb., 1906	51	Closed shop	29,290
Meadville, Pa.	do	90	do	19,000
Buffalo, N. Y.	May, 1906	700	Closed shop and signed agreements	
Do	Sept., 1906	80	Refusal of union molders to make castings for struck shop.	
Do	Oct., 1907	20	Closed shop	
Do	Nov., 1907	22	Open shop	
Do	Feb., 1908	46	Employment of molders who were not members of the union.	147,600

Summary of strikes supported by molders' union, showing their cause and the cost—Con.

City.	Strike started.	Approximate number involved.	Cause of strike.	Approximate cost of strike to union and members involved.
St. Paul, Minn	May, 1906	150	Closed shop and signed agreements	$101,500
Milwaukee and South Milwaukee.	....do	1,340	....do	
Do	July, 1908	20	Limitation of output	1,064,750
Topeka, Kans	May, 1906	20	Closed shop and signed agreements	18,000
Pittsburg, Kans	....do	15	....do	10,500
Springfield, Mo	....do	40	....do	28,100
Kansas City	....do	100	....do	
Do	Apr., 1908	15	Open shop	68,500
Iola, Kans	May, 1906	20	Closed shop and signed agreements	5,048
Chicago, Ill	....do	730	....do	280,000
Beloit, Wis	....do	120	....do	115,000
New Orleans	....do	130	....do	24,812
Jackson, Mich	June, 1906	35	Molders struck against installation of time-clock system.	803
Meriden, Conn	....do	35	Union presented continuous demands; finally requested shifters and dumpers and firm given 1 week to comply.	19,000
Port Chester, N. Y	....do	78	Closed shop	67,500
Plainfield, N. J	....do	13	For control of molding machines	2,316
Barberton, Ohio	....do	55	Open shop	28,100
Columbus, Ohio	July, 1906	288	Closed shop	131,500
Springfield, Ohio	....do	100	Molders' union demanded discontinuance of helper system in piano-plate foundries.	57,250
Akron, Ohio	....do	160	Closed shop	20,000
Williamsport, Pa	Aug., 1906	8	Union demanded recognition of apprentice ratio and discharge of a boy.	
Do	Apr., 1907	65	Closed shop and signed agreements	45,000
Atlanta, Ga	Aug., 1906	13	Closed shop	1,750
Moline, Ill	Apr., 1903	100	....do	187,500
Do	Jan., 1907	100	....do	
Indianapolis, Ind	Sept., 1903	14	....do	85,601
Do	Nov., 1903	165	....do	
Do	Dec., 1904	10	No grievance presented by union	
Bay City, Mich	Jan., 1906	80	Closed shop	8,027
Scranton, Pa	Apr., 1906	160	Closed shop and signed agreement	93,750
Toledo, Ohio	May, 1906	150	....do	58,500
Dowagiac, Mich	....do	25	Closed shop	36,000
Nashua, N. H	....do	70	....do	52,500
Do	Oct., 1906	11	Strike caused in one shop by union men insisting upon taking time to visit neighboring saloon and bring liquor into plant.	
Amsterdam, N. Y	June, 1906	25	Closed shop	5,700
Anderson, Ind	July, 1906	45	....do	8,450
Hartford, Conn	....do	50	....do	7,500
Portsmouth, Ohio	Aug., 1906	70	....do	10,350
Salem, Mass	....do	30	....do	13,900
Rockford, Ill	Sept., 1906	24	Union refused to work on struck patterns	29,145
Do	Nov., 1907	42	Open shop	
Providence, R. I	Sept., 1906	50	Closed shop	46,500
Lynn, Mass	....do	15	....do	13,900
New London, Conn	....do	10	....do	2,300
Marion, Ind	Oct., 1906	18	....do	1,023
Fort Madison, Iowa	Nov., 1906	40	Refusal of union to make castings from patterns known as struck work.	11,250
Smiths Falls, Ontario	Dec., 1906	12	Open shop	763
Hoboken, N. J	Jan., 1907	15	Business agent of molders' union telephoned proprietor he must not fill order received from Allis-Chalmers Co., as this shop was now struck by the union; firm refused to withdraw patterns and strike ensued.	7,500
Houston, Tex	....do	30	Closed shop	
Do	Dec., 1907	11	Open shop	
Do	May, 1908	2	....do	
Do	July, 1908	7	After being closed down for several weeks firm started up with nonunion molders, whereupon the national union began paying its members strike benefits.	9,000
Belmont, N. Y	Feb., 1907	15	Closed shop	5,700
Mattoon, Ill	....do	10	....do	3,750
Logansport, Ind	....do	35	Union demanded that company stop making castings for a struck shop.	3,000
Reading, Pa	Mar., 1907	16	Union demanded that firm stop making castings for a struck shop.	3,750
Marseilles, Ill	Apr., 1907	15	Open shop	938

Summary of strikes supported by molders' union, showing their cause and the cost—Con.

City.	Strike started.	Approximate number involved.	Cause of strike.	Approximate cost of strike to union and members involved.
Geneva, N. Y.	Apr., 1907	22	Union men refused to make castings for a struck shop.	$6,400
Louisville, Ky.	do	45	Demand that four stove shops agree to piece prices determined by union walking delegate with an additional 5 per cent agreed to by an association of stove manufacturers.	24,500
Seattle, Wash.	May, 1907	150	8-hour day and closed shop	120,750
Tacoma, Wash.	do	75	do	63,500
Spokane, Wash.	do	75	do	7,500
Bellingham, Wash.	do	25	do	8,500
Warren, Pa.	do	60	Closed shop	19,900
San Francisco, Cal.	do	890	8-hour day and closed shop	75,000
Fort Wayne, Ind.	do	160	Closed shop	28,200
Dayton, Ohio	do	300	do	147,500
Aurora, Ill.	June, 1907	30	do	11,000
Do.	June, 1908	7	do	
Scottdale, Pa.	July, 1907	50	Closed shop and refusal to make castings for struck shop.	
Connellsville, Pa.	do	50	Closed shop	9,400
Knoxville, Tenn.	Aug., 1907	40	do	2,625
New Haven, Conn.	do	40	do	18,750
Cleveland, Ohio.	Sept., 1907	42	do	15,800
Paterson, N. J.	Dec., 1907	18	Union complained of unsanitary conditions in one shop.	35,700
Avondale, Ala.	Nov., 1907	16	Union molders objected to installation of molding machines and prices for piece work.	19,000
North Newark, N. J.	Dec., 1907		Open shop	400
Portland, Oreg.	Jan., 1908	200	do	44,000
Canton, Ohio.	do	50	Limitation of output by the union	7,500
Newburgh, N. Y.	Mar., 1908	12	Open shop	14,850
Brantford, Ontario.	Apr., 1908	125	do	79,500
Belleville, Ill.	do	100	Four stove foundries notified union they would discontinue paying premium percentage of 25 per cent upon stove castings.	3,750
Mansfield, Ohio.	do	30	Struck because firm refused to put on blast when requested.	
Fremont, Ohio.	do	75	Open shop	4,000
Western, Ontario.	May, 1908	50	do	17,500
Sheffield, Ala.	June, 1908	20	Repeated and persistent demands of union upon stove foundries.	9,250
Ottawa, Ill.	do	9	Closed shop because of installation of molding machines.	2,500
Salem, Ohio.	do	17	Introduction of molding machines and refusal of firm to recognize union ratio of apprentices.	8,000
Des Moines, Iowa.	July, 1908	11	Open shop	2,000
Winnipeg, Manitoba.	Aug., 1908	50	do	4,000
Youngstown, Ohio.	do	20	do	5,750
Washington, Pa.	Oct., 1908	5	Limitation of output	1,800
Ellwood City, Pa.	Nov., 1908	18	National union compelled local members to strike in violation of agreement.	4,000
Columbus, Miss.	do	14	Firm operating stove foundry requested union molders to relieve it from paying premium percentage of 25 per cent upon wages.	4,500
Coscob, Conn.	Dec., 1908	6	Closed shop	
St. Louis, Mo.	do	40	do	1,800
Toronto, Ontario.	Jan., 1909	11	Open shop	2,000
Gadsden, Ala.	Feb., 1909	22	do	
Dover, N. J.	Mar., 1909	15	Union conditions	
Waterloo, Iowa.	do	15	Closed shop	200
Elizabeth, N. J.	Apr., 1909	35	do	250
Cold Spring, N. Y.	May, 1909	37	Closed shop; recognition of New York City minimum rate.	3,500
Wellston, Ohio.	do	40	Closed shop	1,800
Fort William, Ontario.	do	20	Firm refused to pay 25 per cent premium on stove castings.	7,000
Pottstown, Pa.	do	20	Refusal of men to make work from struck shop.	1,800
Chicago Heights.	June, 1909	12	Sympathetic strike with machinists	2,500
Freeport, Ill.	do	50	Closed shop	7,000
Springfield, Ill.	July, 1909	11	Piecework	500
Rock Island, Ill.	Aug., 1909	40	Molding machines	3,200
Denver, Colo.	do	160	Closed shop	7,100

Summary of strikes supported by molders' union, showing their cause and the cost—Con.

City.	Strike started.	Approximate number involved.	Cause of strike.	Approximate cost of strike to union and members involved.
Holyoke, Mass	Oct., 1909	120	Recognition of union restrictions and minimum rates.	$1,000
Muncie, Ind	do	20	Piecework	175
Galva, Ill	Nov., 1909	15	Closed shop	1,500
Kalamazoo, Mich	do	12	do	700
Reading, Pa	do	16	do	
Terre Haute, Ind	do	30		4,500
New Castle, Pa	Dec., 1909	10	Open shop	150
Hamilton, Ontario	Feb., 1909	145	Refusal of firms to renew agreement	55,000
Louisville, Ky	May, 1909	135	Closed shop	32,000
Cleveland, Ohio	Sept., 1909	25	Union recognition	675
Do	June, 1910	50	Men demanded same rate for all classes of labor and closed shop.	2,500
St. Louis, Mo	Oct., 1909	40	Closed shop	6,000
Do	June, 1910	55	Demand for increased wages and closed shop	15,000
Hamburg, Pa	Nov., 1909	16	Closed shop	4,200
Sinking Spring, Pa	do	15	do	3,500
Indianapolis, Ind	do	35	do	175
Canton, Ohio	Dec., 1909	35	Refusal to make struck work	
Milwaukee, Wis	do	40	Closed shop	1,600
St. Joseph, Mo	Jan., 1910	30	Installation of piecework system	5,000
Greenville, Pa	do	25	Closed shop; 9 hour minuimm wage	1,200
Washington Court House, Ohio.	do	8	Piecework	200
New Brunswick, N. J	Feb., 1910	10	Open shop	200
Pittsburgh, Pa	do	20	Closed shop	2,400
South Bethlehem, Pa	do	35	Sympathetic strike	
Albany, N. Y	Mar., 1910	90	Refusal to make struck work	700
Lowell, Mass	Apr., 1910	17	Closed shop	1,000
Salem, Ohio	do	20	do	1,000
Peekskill, N. Y	do	40	do	800
Joliet, Ill	May, 1910	40	do	4,600
Racine, Wis	do	100	Increase in wages, shorter hours, and union shop.	9,000
Detroit, Mich	do	91	Closed shop	4,200
Do	June, 1910	9	do	
Carleton Pl., Ontario	May, 1910	30	do	1,250
Brooklyn, N. Y	do	115	do	22,500
Zelienople, Pa	do	45	do	10,000
Kansas City, Mo	do	24	do	4,000
Rochester, N. Y	do	58	do	3,500
Los Angeles, Cal	do	300	Demand for 8-hour day and closed shop	72,500
Ottawa, Ontario	do	25	Open shop	1,200
Fitchburg, Mass	do	15	do	900
Brockville, Ontario	June, 1910	10	do	1,600
Hamilton, Ontario	do	25	Closed shop	3,500
Rutland, Vt	do	10	do	700
Peterboro, Ontario	do	46	do	500
Philadelphia, Pa	do	138	do	15,000
Montreal, Quebec	July, 1910	30	do	3,500
Marshalltown, Iowa	do	4	do	50
Hartford, Conn	do	166	8-hour day	52,000
Yonkers, N. Y	do	15	Closed shop	400
Newburgh, N. Y	do	15	do	800
Florence, Ala	do	45	Demand for 25 per cent increase (stove shop)	4,300
Jackson, Mich	Aug., 1910	10	Closed shop	600
Lima, Ohio	do	50	do	1,650
North Andover, Mass	do	50	do	1,500
Troy, N. Y	do	300	do	25,000
Green Island, N. Y	do	67	do	
Port Chester, N. Y	Sept., 1910	100	do	3,800
Knoxville, Tenn	do	92	do	27,500
Zanesville, Ohio	do	3	To force firms to pay S. F. N. D. A. prices	250
Trenton, N. J	do	45	Closed shop	2,200
North Newark, N. J	Oct., 1910	14	do	2,200
Baltimore, Md	do	148	do	60,000
Do	Jan., 1911	20	do	5,000
Richmond, Ind	Oct., 1910	25	Discharge of union man	2,500
Peoria, Ill	Nov., 1910	85	Closed shop	4,200
Winnipeg, Manitoba	do	25	Restriction of output	2,200
Sandusky, Ohio	do	6	Open shop	700
Fremont, Ohio	Dec., 1910	50	Closed shop	4,200
Waterloo, Iowa	do	44	do	1,400
Monaca, Pa	Jan., 1911	55	Piecework	4,500
Do	Jan., 1912	80	Sympathetic strike	6,000

Summary of strikes supported by molders' union, showing their cause and the cost—Con.

City.	Strike started.	Approximate number involved.	Cause of strike.	Approximate cost of strike to union and members involved.
Beaver Falls, Pa	Jan., 1911	29	Piecework, closed shop	$6,500
Verona, Pa	do	25	Open shop	5,200
Portland, Oreg	do	25	Increase in wages and closed shop	1,500
Muncie, Ind	Feb., 1911	25	Open shop	.....
Chicago, Ill	do	7	Closed shop	900
Plymouth, Mass	do	30	do	200
Bayway, N. J	do	35	do	3,500
Muskegon, Mich	do	43	do	1,500
Marietta, Ohio	do	21	do	5,600
Huntington, W. Va	Mar., 1911	5	do	150
Plymouth, Ohio	do	20	do	600
Akron, Ohio	do	75	do	7,500
Bakersfield, Cal	do	8	do	.....
Seneca Falls, N. Y	Apr., 1911	125	Molding machines	600
Boston, Mass	do	14	Closed shop	1,000
Wapakoneta, Ohio	do	11	do	2,000
Warren, Ohio	do	8	do	300
Waterbury, Conn	May, 1911	40	Abolishment of piecework	1,200
Palmyra, N. Y	do	8	Closed shop	1,600
Ann Arbor, Mich	do	12	Discharge of union men	900
Toronto, Ontario	do	15	Closed shop	1,600
Bedford, Ohio	June, 1911	10	do	600
Chattanooga, Tenn	do	130	do	17,000
London, Ontario	do	66	9-hour day	6,500
Philadelphia, Pa	do	250	Closed shop	1,000
Bristol, Va	July, 1911	15	do	800
Waynesboro, Va	do	30	Piecework	1,200
Springfield, Ohio	Aug., 1911	25	Increased wages	600
Wheeling, W. Va	Sept., 1911	25	Piecework	900
Walpole, Mass	do	25	Closed shop	1,600
Atlanta, Ga	do	25	Piecework	375
Chicago Heights, Ill	Oct., 1911	25	Closed shop	3,500
Rochester, N. Y	do	16	do	2,000
Pontiac, Mich	do	22	Piecework	250
Canton, Ohio	do	40	Closed shop	2,400
Cincinnati, Ohio	Nov., 1911	8	do	600
Memphis, Tenn	do	12	do	900
Boston, Mass	do	20	do	1,400
Sheffield, Ala	do	20	do	2,500
Trenton, N. J	Dec., 1911	20	Piecework	800
Minneapolis, Minn	do	12	Closed shop	700
Waterloo, Iowa	Jan., 1912	100	do	900
Toledo, Ohio	do	30	do	250
Florence, Ala	do	18	Refusal to renew union agreement	250
Detroit, Mich	Mar., 1912	540	Closed shop	22,500
Buffalo, N. Y	Apr., 1912	35	do	2,200
Manitowoc, Wis	do	55	do	2,800
Cleveland, Ohio	do	260	do	13,000
Chattanooga, Tenn	Jan., 1912	20	do	7,500
Birmingham, Ala	June, 1912	15	Apprentice ratio	200
Nashville, Tenn	Apr., 1912	140	Closed shop	8,000
Utica, N. Y	June, 1912	200	do	1,500

NOTE.—The heading "Approximate number involved" relates only to the number of men in the "struck" shop itself concerned in the strike. It is not assumed to contain the number of union men who became interested by virtue of their cooperation in the conspiracy.

The title "Approximate cost of strike to union and members involved" relates to the cost to the union itself and the members of the National Founders' Association.

The within contains excerpts from the constitutions of 15 unions, including the National Molders' Union of North America, covering the subject of apprentices. This detail was requested to be forwarded by the committee.

EXHIBIT C.

CONSTITUTION OF THE INTERNATIONAL MOLDERS' UNION OF NORTH AMERICA.

ARTICLE IX.

ON APPRENTICES.

SECTION 1. Any boy hereafter engaging himself to learn the trade of molding shall be required to serve four years. He shall in no case leave his employer without a just cause, and any apprentice so leaving shall not be permitted to work under the jurisdiction of any subordinate union, but shall be required to return to his employer. The following ratio of apprentices shall be allowed: One to each shop, irrespective of the number of molders employed, and one to every five molders employed thereafter; and no boy shall begin to learn the trade previous to arriving at the age of 16 years.

CONSTITUTION OF THE INTERNATIONAL SHINGLE WEAVERS' UNION OF AMERICA.

ARTICLE X.

SECTION 1. Apprentices, upon entering mills under the jurisdiction of the International Shingle Weavers' Union, shall be registered by local unions. A record shall be kept of such apprentices and a certificate issued to each, which certificate shall be presented to the union where application is made for membership.

SEC. 2. Apprentices are entitled to admission in the local unions upon payment of half initiation fee. They also pay one-half dues, and the locals pay one-half per capita tax on them.

SEC. 3. The number of apprentices in each mill will be decided upon by the local under whose supervision that mill may come: *Provided*, That no apprentice be accepted into the International Shingle Weavers' Union under 15 years of age.

SUBORDINATE LODGE CONSTITUTION OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS.

ARTICLE II.

APPRENTICES AND JOURNEYMEN.

SECTION 1. Any boy engaging himself to learn the trade of machinist must serve four years. He shall in no case leave his employer without just cause, said cause to be approved by the lodge of which he is a member. Any apprentice failing to comply with this provision shall stand suspended from all benefits of this association until he returns to his employer. Failure to return to his employer within three months shall be sufficient cause for expulsion from this association. The following ratio of apprentices shall be allowed: One to each shop, irrespective of the number of machinists employed, and one to every five machinists thereafter; and no boy shall begin to learn the trade of machinist until he is 16 years old, nor after he is 21 years of age.

CONSTITUTION OF THE PIANO, ORGAN, AND MUSICAL INSTRUMENT WORKERS' INTERNATIONAL UNION OF AMERICA.

ARTICLE XXI.

SEC. 3. Local unions shall have power to stipulate the number of apprentices under their respective jurisdictions. Local unions shall submit their apprentice laws for approval by the international executive board.

CONSTITUTION OF THE SAW SMITHS' UNION OF NORTH AMERICA.

ARTICLE IX.

SEC. 2. The ratio of apprentices shall be one apprentice to the first 10 journeymen or fractional part thereof; and one for any fractional part, over one-half, of every additional 10 journeymen, and one for each shop.

CONSTITUTION OF THE BROTHERHOOD OF PAINTERS, DECORATORS, AND PAPERHANGERS.

SEC. 257. Each L. U. and D. C. shall make regulations limiting the number of apprentices employed in each shop to one for such number of journeymen as may seem just.

CONSTITUTION OF THE BOOT AND SHOE WORKERS' UNION.

SEC. 71. Any member of the Boot and Shoe Workers' Union wishing to learn a particular part of the trade outside the jurisdiction of his own union shall make application to his local executive board to intercede in his behalf with the local executive board having jurisdiction over the part of the trade to be acquired; and should failure to agree follow, the request should be considered by the joint shoe council. And if the decision of the council be unsatisfactory, an appeal can be made to the general executive board, whose decision shall be rendered within 30 days and shall be final. In no case shall an application be considered unless the member has been one year in good standing. This is not intended to create a surplus of help in any particular part of the craft.

LAWS FOR THE GOVERNMENT OF THE PATTERN MAKERS' LEAGUE OF NORTH AMERICA.

CLAUSE 2. The following ratio of apprentices shall be allowed: One to each shop, irrespective of the number of journeymen employed, and one to every eight journeymen employed thereafter. This ratio shall apply separately to wood and metal pattern makers.

GENERAL LAWS OF THE INTERNATIONAL STEREOTYPERS' AND ELECTROTYPERS' UNION OF NORTH AMERICA.

Apprentices.

SEC. 19. It is enjoined upon each subordinate union to make regulations limiting the number of apprentices to be employed in each office to one for such number of journeymen as to the union may seem just.

No subordinate union shall admit to membership any person who has not served an apprenticeship of at least five years.

An apprentice at stereotyping or electrotyping must make application for membership to the union having jurisdiction over the office in which he serves his apprenticeship.

Where an apprentice has intermittent employment, local unions shall require affidavit from applicant regarding time of service, such affidavits to be on file and authenticated before favorable action shall be taken on said apprentice's application for membership.

It shall be mandatory upon every chairman of chapel to register apprentices with the secretary of his local union and with the secretary-treasurer of the International Stereotypers' and Electrotypers' Union within 30 days after employment.

In the event of such registered apprentice losing his position through no fault of his own (which fact is to be determined by the local within whose jurisdiction he has bee employed) he shall be eligible to the first apprentice vacancy occurring to complete his unexpired term of apprenticeship.

Apprentices in any office under the juridiction of the International Stereotypers' and Electrotypers' Union shall not be permitted to work more than six day or night shifts within one week: *Provided*, That the executive board shall be authorized to permit an apprentice to work more than six days or nights when in their judgment conditions would warrant the same.

CONSTITUTION OF THE CIGAR MAKERS' INTERNATIONAL UNION OF AMERICA.

SEC. 216. Local unions shall have power to stipulate the number of apprentices under their respective jurisdictions. Local unions shall submit their apprentice laws, for approval, by the international executive board.

GENERAL LAWS OF THE INTERNATIONAL TYPOGRAPHICAL UNION.

SEC. 82. It is enjoined upon each subordinate union to make regulations limiting the number of apprentices to be employed in each office to one for such number of journeymen as to the union may seem just; and all local unions must pass laws defining the grade and classes of work apprentices must be taught from year to year of

their apprenticeship, with the aim in view that they may have the opportunity of acquiring a thorough knowledge of the printing trade; and all unions are recommended to admit to membership apprentices in the last year of their apprenticeship, without the privilege of voting, and exempt from the payment of dues for that year, to the end that, upon the expiration of their terms of apprenticeship, they may become acquainted with the workings of the union and be better fitted to appreciate its privileges and obligations upon assuming full membership. They shall be required to take an obligation pledging themselves to maintain the secrecy of the organization in which they desire membership.

CONTSITUTION OF THE TRAVELERS' GOODS AND LEATHER NOVELTY WORKERS' INTERNATIONAL UNION.

ARTICLE V.

SEC. 2. Apprentice cards will be granted apprentices and no pieceworker be allowed to have a boy working for him.

SEC. 3. Each shop shall be entitled to one apprentice to each four journeymen. In the bag and suit-case branch there shall be employed not more than one apprentice to each two journeymen.

CONSTITUTION OF THE INTERNATIONAL BROTHERHOOD OF BLACKSMITHS AND HELPERS.

ARTICLE XIII.

SECTION 1. Any boy engaging himself to learn the trade of blacksmithing must serve four years. He shall in no case leave his employers without just cause. Any difficulty arising between the apprentice and his employer must be submitted to the shop committee. The following ratio of apprentices will be allowed: One to each shop irrespective of the number of blacksmiths employed, and one to every five blacksmiths thereafter. No boy shall begin to learn the trade until he is 16 years old, nor after the age of 21 years.

CONSTITUTION OF THE INTERNATIONAL PRINTING PRESSMEN AND ASSISTANTS' UNION.

ARTICLE III.

SECTION 1. Subordinate unions should make regulations limiting the number of apprentices to be employed in each office, such apprentices to be taken from Assistants' and Feeders' or Job Pressmen's Union working under the jurisdiction of the international union. All apprentices shall serve four years, and one apprentice to be allowed to every four journeymen.

CONSTITUTION OF THE UNITED ASSOCIATION JOURNEYMEN PLUMBERS, GAS FITTERS, STEAM FITTERS AND STEAM FITTERS' HELPERS OF THE UNITED STATES AND CANADA.

SEC. 112. It is the opinion of the united association that local unions throughout our jurisdiction should use their best efforts and endeavors to abolish all helpers and apprentices, so far as possible, until such time as local unions are otherwise advised by a convention or by referendum vote.

EXHIBIT D.

The State of Ohio, Hamilton County. The court of common pleas of Hamilton County. Term of October, in the year 1904.

HAMILTON COUNTY, *ss:*

The grand jurors of the county of Hamilton, in the name and by the authority of the State of Ohio, upon their oaths and affirmations present that Frederick L. Rauhausen, jr., and Joseph Hollowell, on the 21st day of November, in the year 1904, with force and arms, at the county of Hamilton aforesaid, unlawfully, wilfully, and maliciously did destroy a certain lathe-bed mold of the value of $75, the property of the Ureka Foundry Co., a corporation organized under the laws of the State of Ohio, and not of them, the said Frederick L. Rauhausen, jr., and Joseph Hollowell, by placing in said lathe-bed mold an explosive substance to the grand jurors unknown, contrary to the

form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present that Frederick L. Rauhausen, jr., and Joseph Hollowell, on the 21st day of November, in the year 1904, with force and arms at the county of Hamilton aforesaid, unlawfully, wilfully, and maliciously did injure a certain lathe-bed mold to the amount of $75 in the value thereof, by placing in said lathe-bed mold an explosive substance to the grand jurors unknown, which said lathe-bed mold was then and there the property of the Eureka Foundry Co., a corporation organized under the laws of the State of Ohio, and not of them, the said Frederick L. Rauhausen, jr., and Joseph Hollowell, being part of the same transaction set forth in the first count of this indictment, contrary to the form of the statute in such case made and provided and against the peace and dignity of the State of Ohio.

HIRAM M. RULISON,
Prosecuting Attorney, Hamilton County, Ohio.

Indorsements on the back of indictment: No. 13890, Hamilton common pleas. The State of Ohio *v.* Frederick L. Rauhausen, jr., and Joseph Hollowell. Indictment for malicious destruction of property. A true bill. Geo. B. Ellard, foreman of the grand jury. Reported and filed this 17th day of December, A. D. 1904. Chas. Weidner, jr., clerk, Hamilton common pleas. By John Byrne, deputy. Hiram M. Rulison, prosecuting attorney, Hamilton County, Ohio.

The within indictment was found upon testimony sworn and sent before the grand jury at the request of the prosecuting attorney.

HIRAM M. RULISON,
Prosecuting Attorney, Hamilton County, Ohio.

State of Ohio, Hamilton County, court of common pleas.

The State of Ohio
v.
Frederick L. Rauhauser, jr., and Joseph Hollowell. } No. 13890.

Indictment for malicious destruction of property, reported and filed 17th day of December, 1904. Præcipe for warrant filed and warrant issued.

Min. 2589. Bond, $1,000, October, 1904, and January, 1905, terms as to Rauhauser, jr.

This day came the prosecuting attorney on behalf of the State of Ohio, the defendant coming into court and with Fred Wiebking as surety entered into recognizance before this court in the sum of $1,000, conditioned for his appearance before this court at the October, 1904, and January, 1905, terms of this court to answer the charge against him.

Min. 2601. Plea of not guilty entered as to both defendants.

This day came the prosecuting attorney on behalf of the State, the defendants coming into court and being arraigned upon said indictment for plead thereto, each defendant for himself says he waives the reading of the indictment and each defendant for himself says he is not guilty and puts himself upon the country, and the prosecuting attorney doth the like.

Min. 2520. Entry setting case for trial.

In re criminal calendar: This day came the prosecuting attorney on behalf of the State of Ohio and presented to the court the following case for trial, which case, under the direction of the court, is hereby set for trial as follows:

No. 13890; State *v.* Rauhauser, jr.; charge, malicious destruction of property; date, January 27, 1905.

Min. 2535. Plea of not guilty retracted; plea of guilty, as charged, entered.

This day came the prosecuting attorney on behalf of the State of Ohio, the defendant coming into court, his counsel also appearing. Thereupon said defendant, Frederick L. Rauhauser, jr., retracts his plea of not guilty, heretofore entered, and enters a plea of guilty, as charged in the first count of the indictment herein. And said defendant being inquired of by the court if he had anything to say why judgment should not be pronounced against him, and having nothing further to say than he hath already said,

It is therefore adjudged by the court that said defendant, Frederick L. Rauhauser, jr., pay a fine of $400 and the costs of this prosecution, for which execution is awarded.

Fine	$400
Costs	-----
Total	400

Paid February 9, 1905.

HIRAM M. RULISON, *Prosecuting Attorney.*
By A. C. MINNING, *As to Fredk. Rauhauser, jr.*

THE STATE OF OHIO, *Hamilton County, ss:*

I, A. E. B. Stephens, clerk of the court of common pleas within and for said county, do hereby certify that the within and foregoing is a true and correct transcript of the indictment (reported and filed December 17, 1904) and of the docket and journal entries as to Frederick L. Rauhausen, jr., in case No. 13890, wherein the State of Ohio is plaintiff, and Frederick L. Rauhauser, jr., and Joseph Hollowell are defendants, as appears from the files and records now in my office.

In testimony whereof, I, the clerk aforesaid, have hereunto set my hand and affixed the seal of the said court, at Cincinnati, in the said county, this 27th day of June, A. D. 1912.

[SEAL.]

A. E. B. STEPHENS,
Clerk Court of Common Pleas, Hamilton County, Ohio.

THE STATE OF OHIO, *Hamilton County, ss:*

I, John G. O'Connell, presiding judge of the court of common pleas, for the first district, within and for the State of Ohio, the same being a court of law and record in and for the county of Hamilton, do hereby certify that A. E. B. Stephens is clerk of said court, and was such clerk at the time of making and subscribing to the foregoing certificate, and that the attestation of said clerk is in due form of law, and by the proper officer.

In testimony whereof I do hereto subscribe my name, at Cincinnati, this 27th day of June, A. D. 1912.

JOHN G. O'CONNELL,
Presiding Judge of the Court of Common Pleas.

THE STATE OF OHIO, *Hamilton County, ss:*

I, A. E. B. Stephens, clerk of the court of common pleas within and for said county, do hereby certify that John G. O'Connell, whose name is subscribed to the foregoing certificate, was at the time of subscribing the same presiding judge of the court of common pleas for the first district within and for the State of Ohio, duly commissioned and qualified, and that full faith and credit are due to all his official acts as such.

In testimony whereof I, the clerk aforesaid, have hereunto set my hand and affixed the seal of the said court at Cincinnati, in the said county, this 27th day of June, A. D. 1912.

[SEAL.]

A. E. B. STEPHENS,
Clerk Court of Common Pleas, Hamilton County, Ohio.

EXHIBIT E.

In the Superior Court of the City of Cincinnati.

The I. & E. Greenwald Co., a corporation organized under the laws of the State of Ohio, plaintiff, *v.* the Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders' Union No. 4, Daniel Twohig, president; Henry Hinnenkamp, business agent; Iron Molders' Union No. 432, John Prindle, president; Henry Hinnenkamp, business agent; and William Oberjohn, secretary, defendants.

PETITION.

To the judge of the superior court of the city of Cincinnati:

Plaintiff states that it is a corporation organized and existing under the laws of the State of Ohio, for the purpose, among others, of manufacturing and selling gray iron castings; that it is now and for a number of years last past has been engaged in said business; that it has a capital of $200,000; that it has maintained and now has a large foundry in the city of Cincinnati, Hamilton County, Ohio, and until the happening of the grievances hereinafter stated has manufactured at said foundry and sold and shipped therefrom large quantities of said castings, and that the successful operation of said business requires it to employ and it has been accustomed to employ in said foundry about 150 men.

Plaintiff further states that the men so employed by it belonged to the trades unions which are distinct and organized associations in Cincinnati and vicinity, defendants hereto, each having regular executive officers and bearing the following names viz.: Iron Molders' Union No. 4 and Iron Molders' Union No. 432, and the Iron Molders' Union of North America is the supreme head and is vested with the government and superintendence of subordinate unions of iron molders.

That these unions are secret organizations and conduct all their business affairs in privacy and secrecy, and each has complete control over its members, respectively, and plaintiff is unable to obtain the names of the executive officers of said unions or of their members respectively for that reason, except the following: The Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders' Union, No. 4, Daniel Twohig, president; Henry Hinnenkamp, secretary and business agent; Iron Molders' Union, No. 432, John Prindle, president; Henry Hinnenkamp, business agent; and William Oberjohn, secretary; and that they are all acting through said defendants, Henry Hinnenkamp and Joseph F. Valentine, in maintaining, directing, and conducting the present strike.

Plaintiff further states that prior to September 6, 1904, the said defendant unions, through their said several executive officers and their members, entered into an unlawful conspiracy and agreement among themselves and divers other persons now unknown to plaintiff (who it prays may be made defendants hereto upon discovery of their names), to form and carry into execution a strike in 11 of the manufacturing concerns employing molders in Cincinnati and vicinity, including the foundry of this plaintiff; that the object of such strike was to break up the employment, whether the same was existing by contract or otherwise, of all molders engaged in plaintiff's foundry, and through such means or any other means that might be found necessary, force them to withdraw and desist from work in plaintiff's foundry, and to prevent others, not members of such unions, from accepting employment therein, and to stop and destroy plaintiff's said business and to deprive it of its employees and drive them away, and to prevent others not theretofore so employed and not members of such unions from accepting employment therein and from filling the places so made vacant, also to persist in this unlawful course and conspiracy until and unless certain exactions made by said defendant unions upon plaintiff were complied with, and that the exactions so made were in substance and effect as follows:

First. That on and after August 1, 1904, the minimum rate of wages to be paid to floor molders shall be $3.20 per day and to bench molders $3 per day and to coremakers $2.50 per day of 10 hours.

Second. That all overtime, except in cases of accident or causes beyond control not consuming more than 30 minutes' time, shall be paid for at the rate of time and one-half time and double time for Sundays and legal holidays, to wit, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

Third. All local conditions for molders to remain in force as heretofore.

Plaintiff further states that the execution of said conspiracy was begun on the 6th day of September, 1904, through and in pursuance of an order made and issued by direction of the defendant unions acting through their executive officers and said defendants, Henry Hinnenkamp and Joseph E. Valentine; that in obedience to said order nearly all of the employees of plaintiff quit work on that day and refused to continue in the employ of plaintiff, and thereupon and thereafter, through various means, said defendants and said conspirators prevented plaintiff from filling the vacancies so made, and so succeeded in practically stopping plaintiff's business; that among the means resorted to by said conspirators was and is that of selecting and detailing large numbers of persons called pickets to constantly watch and beset the approaches to plaintiff's foundry, and to congregate at and near said foundry in large numbers to intimidate and coerce by threats, abuse, violence, and other means persons willing and attempting to approach plaintiff's foundry for the purpose of entering into the employment of plaintiff and likewise to intimidate and coerce by like measures such of said persons as have succeeded or shall succeed in reaching plaintiff's foundry, and entering upon work there in the place of strikers when such persons are going to or leaving said work, such threats, abuse, and violence consisting in substance and effect of statements made by said pickets to the persons aforesaid; that such pickets and the union members generally will succeed in said strike and will return to their old employment and will not then suffer said persons to work in their presence in this city or vicinity, or in the presence of any other union men in any other city, declaring they will take and distribute their photograph for the purpose of identification and ostracism and exclusion from work at any time or place, consisting also of epithets used against the persons so seeking and desirous of entering into and continuing in such employment, such as "traitors" and "scabs," at the same time laying violent hold upon their persons and pushing and jerking them amid jeers and laughter which terrorize them and are calculated to and do humiliate and disgrace them among the classes they are accustomed to associate with, consisting also in some instances of actual assaults upon such persons, and as showing the purpose of the defendant unions and the individual members thereof, and their officers, associates, and confederates, who are all combining and confederating together for the purpose of preventing the

employees of plaintiff who are desirous of working from continuing in its employ, and also of preventing others from entering the employment of plaintiff, thereby ruining plaintiff's business.

Plaintiff states that seven men, to wit: Albert Wallace, James Wilson, Edward Callahan, Ernst McCarthy, R. Scott, E. Fitzgerald, and W. Wurtzbaugh, accepted employment with plaintiff and began work at plaintiff's foundry on Monday, September 19, 1904.

That at the close of work on each day said employees would leave said foundry escorted by special policemen and that the said special policemen would take them to the work, and that on each occasion from 12 to 150 men who were picketing said place would begin to curse them, calling them "scabs" and "traitors" and making threats of beating them up and killing them.

That at the close of work on September 24 a detail of regular police was escorting three of plaintiff's employees to their boarding house, when a mob of over 200 persons, composed mostly of members of defendant unions, followed them and made such a demonstration against them that said employees refused to return to their said employment.

That by these and similar acts said defendants, their pickets, associates, and confederates, have kept away from plaintiff all the men it has been able to employ, and materially and irreparably impaired and injured its business, and but for such said acts and threats the places of said employees could and would easily be filled by persons willing and anxious to work.

Plaintiff further states that the pickets so detailed for and placed, kept at plaintiff's foundry, are not all kept there continuously, but many of them are changed from day to day from one foundry to another, though all were engaged in common purpose and to accomplish a common end, to wit, to prevent persons willing to work from entering or continuing in the employment of plaintiff; that another object as well as the result of these changes of pickets from place to place is to prevent plaintiff from obtaining all the names of the pickets and so from enforcing plaintiff's lawful rights in the premises; that the changes made are accomplished by sending former employees of said plaintiff to some other foundry, and former employees of that foundry to plaintiff's foundry, and so on through the entire list of manufacturing concerns affected by the conspiracy and strike aforesaid.

Plaintiff further states that the congregations of persons, commonly called pickets, to patrol and control the approaches to and surroundings of plaintiff's foundry and the loitering and boisterous conduct of such persons, are calculated to and do attract other unemployed and lawless characters in such numbers as to intimidate other persons who are willing to go to and from said foundry as ordinary employees and laborers do when engaged in work therein; that the collections of some of the same persons and others employed and engaged in said strike who intercept persons who are so willing to work at plaintiff's foundry, either in going to the same or away from the same, from or to their homes, and make threats and do the acts hereinbefore recited, are likewise calculated to and do attract other idle persons who unite and join in the performance of the acts mentioned; that such conduct and all these acts irreparably affect and injure plaintiff's property and business aforesaid and prevent it from carrying on said business or pursuing its lawful rights and privileges in connection therewith; and that the said conduct and several acts hereinbefore complained of, done and performed on the part of the defendants and those associated with them, whose names are not given for reasons hereinbefore stated, have continued over since September 6, 1904, and will continue unless the relief prayed for herein is granted; and that said acts cause not only irreparable damage to the property, rights, and business of the plaintiff, but they constituted and are a continuing nuisance to the same.

Plaintiff further states that if the defendants are permitted to carry on their unlawful and violent acts above mentioned, which they threaten to do, that its business, which is a large one, will be seriously injured, if not entirely ruined, and if continued, will suffer irreparable injury, for which it has no adequate remedy at law, and for which no adequate damages can be assessed.

Plaintiff further states that the persons, other than those named as defendants herein, who have been congregating and loitering in front of and in the neighborhood of plaintiff's foundry, and have been thereby aiding and abetting said defendants in the unlawful acts by them done, as hereinbefore stated, are too numerous for it to make them all parties to this suit, even if plaintiff could obtain their names, which it can not do, but plaintiff avers that the members of the said said several defendant unions are in combination and are associated together in an unlawful enterprise, and

that plaintiff should not be obliged to make all said members of said interference with the business of said plaintiff parties to this suit, but that plaintiff should be permitted to proceed against the the representatives of said defendant lodges, to wit, their executive officers, together with said defendants Henry Hinnenkamp and Joseph F. Valentine, and such other members of said lodges whose names may from time to time be ascertained and who are guilty of the unlawful practices herein alleged.

Wherefore plaintiff prays for a temporary restraining order, enjoining the said defendants, and each of them, their agents, servants, employees, and members, and any and all other persons that may be associated with them in committing the acts and grievances complained of herein, from in any manner interfering with, hindering, obstructing, or stopping of the business of the plaintiff or its agents, servants, or employees in the operation of its said foundry, or in bringing materials to the same or taking manufactured castings, goods, or products away from the same, to any place desired; and from entering upon the grounds or premises of plaintiff for the purpose of interfering with, hindering, obstructing, or stopping its business in any form or manner; and from compelling or inducing or attempting to compel or induce by threats, intimidation, coercion, force, or violence any of the employees of plaintiff, or persons wishing or willing to become such, to refuse or fail to perform their duties as such employees, whether under contract or otherwise, or refuse or fail to become such employees, and from compelling or inducing or attempting to compel or induce by threats, intimidation, coercion, force, fraud, or violence any of the employees of plaintiff to leave the service or employment of plaintiff, and from doing any act whatever in furtherance of any conspiracy, combination, agreement, or design to obstruct or impede plaintiff or any of its officers or employees in the free and unhindered control of its business; and from ordering and directing, aiding, assisting, or abetting in any manner whatever any person or persons to commit any of the acts aforesaid; and from congregating at or near the premises of plaintiff in Cincinnati, Ohio, for the purpose of intimidating or coercing or in any manner inpeding its employees, or other persons willing to become such, or coercing them or preventing them from rendering their services to plaintiff, and from inducing or coercing or fraud, said employees or persons willing to become such to leave or abstain from entering the employment of plaintiff, and from interfering by threats or any other acts of intimidation, with the plaintiff in carrying on its said business in its usual and ordinary way; and from in any way interfering with, molesting any person or persons who may be employed by or seeking employment with complainant in the operation of its foundry or business; and from collecting in and about the approaches to plaintiff's foundry for the purpose of picketing, besetting, patrolling, or guarding the streets, avenues, doors, gates, and approaches to the property of plaintiff, for the purpose of intimidating, threatening, or coercing, or in any manner impeding way of the employees of plaintiff or any person seeking the employment of plaintiff, and from interfering with the employees of said plaintiff, or with other persons in going to and from the foundry or property of plaintiff in the prosecution of their daily work or other business to be there done, and from going either singly or collectively to the homes, boarding houses, or habitation of plaintiff's employees or of any persons wishing to become such, for the purpose of intimidating or coercing any or all of them to leave the employment of plaintiff or from entering its employment, and as well from intimidating or threatening in any manner the relatives, wives, and families or any of the members thereof of said employees of plaintiff, at their said homes or elsewhere.

Plaintiff further prays that upon final hearing hereof the foregoing injunction may be perpetual, and that such other and further relief may be granted it in the premises as shall seem to the court to be just and equitable.

CHAS. F. WILLIAMS,
Attorney for Plaintiff.

STATE OF OHIO, *Hamilton County, ss:*

———— ————, being duly sworn, says that he is plaintiff in the above petition, and that the facts stated on information and belief he verily believes to be true, and that the facts otherwise stated herein are true.

[SEAL.] THOMAS L. GREENWALD.

Sworn to and subscribed before me, this 29th day of September, 1904.

CHARLES F. WILLIAMS,
Notary Public, Hamilton County, Ohio.

$0.40 due notary.

ORDER OF INJUNCTION.

Superior court of Cincinnati.

THE STATE OF OHIO, *Hamilton County, City of Cincinnati, ss:*

The I. & E. Greenwald Co., a corporation organized under the laws of the State of Ohio, plaintiff,
v.
The Iron Molders' Union of North America et al., defendants.

Injunction undertaking in $250 executed on behalf of plaintiff.

To the defendants, the Iron Molders' Union of North America, Joseph F. Valentine, president, E. J. Denney, secretary, Victor Klieber, assistant secretary, R. H. Metcalf, financier, John P. Frey, editor; Iron Molders' Union No. 4, Daniel Twohig, president, Henry Hinnenkamp, business agent; Iron Molders' Union No. 432, John Prindle, president, Henry Hinnenkamp, business agent, and William Oberjohn, secretary, their confederates, servants, or agents, and any and all persons aiding and abetting them or any of them now or hereafter confederating or acting in concert with them in any way.

You are hereby enjoined to absolutely desist and refrain from hindering, obstructing, or stopping any of the business of the I. & E. Greenwald Co. in the city of Cincinnati, Hamilton County, or elsewhere.

Also from entering upon the grounds or places where the employees of the I. & E. Greenwald Co. are at work for the purpose of and in such a manner as to interfere with, hinder, or obstruct the business of the I. & E. Greenwald Co. in any manner whatsoever.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, persuasion, force, or violence any of the employees of the I. & E. Greenwald Co. to refuse or fail to do their work or discharge their duties as such employees.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, force, violence, or unlawful persuasion any of the employees of the I. & E. Greenwald Co. to leave its service.

Also from preventing or attempting to prevent any person or persons by threats, intimidation, force, violence, or unlawful persuasion from freely entering into the service or employment of the I. & E. Greenwald Co.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, force or violence, or unlawful persuasion any person or persons whomsoever from assisting and aiding the I. & E. Greenwald Co. in the conduct of its business and from doing any act whatever in furtherance of any conspiracy or combination to restrain or obstruct the operation of the business of the I. & E. Greenwald Co.

Also from ordering, aiding, assisting, or abetting or unlawfully persuading in any manner whatever any person or persons to commit any or either of the acts aforesaid.

Also from congregating or being upon or about the sidewalks, streets, alleys, or approaches adjoining or adjacent to where the said employees of the I. & E. Greenwald Co. may be employed for the purpose and in such a manner as to intimidate said employees or coerce said employees or prevent said employees or any of them from rendering their service or discharging their duties to the I. & E. Greenwald Co.

Also from inducing or coercing by threats, intimidation, force, violence, or unlawful persuasion any of the employees of the I. & E. Greenwald Co.

Also from in any manner interfering with the I. & E. Greenwald Co. in carrying on its business in the usual and ordinary way.

Also from acting in such a manner as to intimidate or in any manner interfering with or molesting any person or persons who may be employed by or seeking employment with the I. & E. Greenwald Co. in the operation of its business.

Also either singly or in combination with others from collecting in and about the approaches to the place of business of the I. & E. Greenwald Co. for the purpose of picketing or patrolling or guarding the streets, avenues, gates, and approaches to the place of business of the I. & E. Greenwald Co. in such a manner as to threaten, coerce, or frighten any of the employees of the I. & E. Greenwald Co. or cause its employees to leave and abandon their employment with the I. & E. Greenwald Co.

Also from preventing any person or persons from seeking employment with the I. & E. Greenwald Co.

Also from interfering with the employees of the I. & E. Greenwald Co. in going to and from their daily work at the I. & E. Greenwald Co.'s place of business.

And also from going either singly or collectively to the homes of the employees of the I. & E. Greenwald Co. or any or either of them for the purpose of and in such a

manner as to intimidate, coerce, or unlawfully persuade any or all of said employees to leave the employment and service of the I. & E. Greenwald Co. or prevent any person from entering its employment or service.

And also from intimidating and threatening in any manner the wives and families of said employees at their homes or elsewhere, until the further order of the court.

Witness my hand and the seal of the said superior court, at Cincinnati, this 30th day of September, 1904.

[SEAL.]

CHAS. WEIDNER, Jr.,
Clerk Superior Court of Cincinnati,
By FRED DREIHS, *Deputy.*

In the superior court of the city of Cincinnati.

The I. & E. Greenwald Co., a corporation organized under the laws of the State of Ohio, plaintiff, *v.* The Iron Molders' Union of North America et al., defendant. } No. 52517. Affidavit of Thomas S. Greenwald.

STATE OF OHIO, *Hamilton County, ss:*

Thomas S. Greenwald, being first duly sworn, deposes and states that he is vice president and superintendent of the I. & E. Greenwald Co., located at 720 East Pearl Street, Cincinnati, Ohio.

That prior to September 6, 1904, all of the men employed in the molding department of his foundry were members of the Iron Molders' Union of North America, Iron Molders' Union No. 4, and Iron Molders' Union No. 432, and on September 6, 1904, said employees went out on a strike.

That since said strike said Greenwald Co. has employed 11 men, who were so intimidated by the said iron molders' unions that they refused longer to work for them until an injunction is ordered.

That it is necessary for the conducting of its business that they have from 15 to 20 molders; that they have orders on hand to the amount of about $30,000; and that said orders are being canceled and they will be unable to fill said orders unless the proper number of molders are engaged.

Affiant states that ever since the strike, from 12 to 150 molders belonging to the defendant unions had been picketing the foundry of the I. & E. Greenwald Co.

That among said members he recognized John Hood, Ed Lyons, Cal Martin, W. Schofield, T. Messmer, F. Pohl, jr., J. Casselman, J. Flichinger, F. Vollmer, and R. Whalen, who are former employees of the I. & E. Greenwald Co. and members of said unions.

That the I. & E. Greenwald Co. have employed Becker's detective agency to escort the men to and from their work, but seeing there were inadequate to cope with the situation, a squad of regular police were detailed, and affiant together with Ezra Greenwald, president of said company, in the evening of September 24, were on their way to the homes of said workmen, a mob of over 200 men followed them, hooting and jeering at them, calling them "traitors" and "scabs," and so intimidating the men that they refused to work longer for said Greenwald Co. unless an injunction was obtained by them.

Affiant states that since said strike he made a contract with Joseph Hood to work for him for one year at the rate of $3 per day; that said Hood lives in Bellevue, Ky., and that members of said iron molders unions held him up at the middle of the L. & N. Bridge and threatened to kill him if he continued in the employ of the said Greenwald Co., and likewise called at the home of the said Hood and told his wife that if she did not prevent her husband from working for said company, he would be brought home a corpse.

Affiant further states that E. Fitzgerald and William Wurtzbaugh, while on their way to the foundry of said company, were caught by about 20 pickets, carried to the headquarters of the said defendant unions, and there scared so badly that they left town.

[SEAL.]

THOMAS S. GREENWALD.

Sworn to and subscribed before me, this — day of September, 1904.

CHARLES F. WILLIAMS,
Notary Public, Hamilton County, Ohio.

In the superior court of the city of Cincinnati.

The I. & E. Greenwald Co., a corporation organized under the laws of the State of Ohio, plaintiff,
v.
The Iron Molders' Union of North America et al., defendant.
No. 52517. Affidavit of Thomas Marsh.

Thomas Marsh, being first duly sworn, deposes and states that he is an employee of the I. & E. Greenwald Co., and that on the evening of Wednesday, September 21, 1904, about 5.45 o'clock, he, together with Jesse Binley and Edward Bodenstein, went across the L. & N. bridge, and when in the center of said bridge, saw four men take hold of Joseph Hood, an employee of the I. & L. Greenwald Co., and saw one of said men draw back his fist in such a manner as if he would strike him.

THOMAS MARSH.

Sworn to and subscribed in my presence, this 29th day of September, 1904.

[SEAL.] FRANK P. GARRISON,
Notary Public, Hamilton County, Ohio.

$0.40 due notary.

In the superior court of the city of Cincinnati.

The I. & E. Greenwald Co., a corporation organized under the laws of the State of Ohio, plaintiff,
v.
The Iron Molders' Union of North America et al., defendants.
No. 52517. Affidavit of Ezra Greenwald.

STATE OF OHIO, *Hamilton County, ss:*

Ezra Greenwald, being first duly sworn, deposes and states that he has read the petition of the I. & E. Greenwald Co., a corporation organized under the laws of the State of Ohio, and the affidavit made by Thomas L. Greenwald, filed herein, and that the facts stated therein are true as he verily believes.

E. E. GREENWALD.

Sworn to and subscribed before me, this 30th day of September, 1904.

[SEAL.] FRANK P. GARRISON,
Notary Public, Hamilton County, Ohio.

Forty cents due notary.

Superior court, Cincinnati, Ohio.

I. & E. Greenwald Co., etc., plaintiff,
v.
Iron Molders' Union, etc., defendant.
No. 52517. Affidavit.

STATE OF OHIO, *Hamilton County, ss:*

Michael J. Kane, being first duly sworn, states that he is a lieutenant of police, located at second district police station; that on Saturday evening, September 24, 1904, he took six policemen and escorted the employees of the I. & E. Greenwald Co. from the foundry of said company to 410 East Fourth Street; that on leaving said foundry a number of men started to follow them; that every little distance a few more joined in until by the time they reached Fourth and Pike there was a crowd of 30 or 40; that this crowd demanded that one of said employees be searched, which was done, but no weapon found; that but for the prompt action and cool-headedness of the officers the crowd would have resulted in a mob; that the actions of this crowd were calculated to frighten and terrify the said employees; that one of the crowd said to affiant, "You won't have that cap on very long," but made his escape. The crowd kept calling, "We'll have our rights."

MICHAEL J. KANE,
Lieutenant Second District Police Station.

Sworn to before me and subscribed in my presence this 28th day of September, 1904.

[SEAL.] FRANK P. GARRISON,
Notary Public, Hamilton County, Ohio.

Forty cents due notary.

Superior court of Cincinnati, Ohio.

The I. & E. Greenwald Co., etc., plaintiff,
v.
Iron Molders' Union, etc., defendant.
No. 52517. Affidavit.

STATE OF OHIO, *Hamilton County, ss:*

Louis Becker, being first duly sworn, deposes and states that he is manager and sole owner of Louis Becker's detective agency; that he was retained by the I. & E. Greenwald Co. from September 12, 1904, up to and including September 24 to escort the employees of said company from their foundry on Pearl Street to the boarding houses of the men at 410 East Fourth Street.

That he detailed one man for that purpose each day and on the evening of September 23 he escorted the men from work and met them on the morning of September 24 and escorted them to work.

That on the evening of September 23, in addition to affiant there was a sergeant and three policemen of the regular police force of Cincinnati, and that during the walk to the homes of the said workmen, he saw about 100 striking molders picketing along said line of march.

That on the morning of September 24, affiant was without police protection, and a crowd of about 15 striking molders followed affiant, which crowd kept increasing until at Third and Lawrence Streets the crowd was so large that affiant placed the men in the engine house, while he endeavored to reach the police station.

Being unable to reach it, he accompanied the men to the Greenwald foundry, and at said foundry another crowd of 50 men or so were present, making a total when affiant reached the foundry about 150 men.

LOUIS BECKER.

Sworn to and subscribed before me this 29th day of September, 1904.

[SEAL.] CHAS. F. WILLIAMS,
Notary Public, Hamilton County, Ohio.

Forty cents due notary.

October 3, 1904, served the within-named defendants, the Iron Molders' Union of North America, by delivering a true copy of this writ with all the indorsements thereon personally to Joseph F. Valentine, president thereof, at 1.50 o'clock p. m.; also served Iron Molders' Union No. 4 by delivering a true copy of this writ with all the indorsements thereon personally to Daniel Twohig, president thereof, at 2.20 o'clock p. m.; also served Iron Molders' Union No. 432, by delivering a true copy of this writ with all the indorsements thereon personally to John Prindle, president thereof, at 7 o'clock p. m.; also served Joseph F. Valentine, president, E. J. Denney, secretary, Victor Klieber, assistant secretary, R. H. Metcalf, financier, John P. Frey, editor, at 1.50 o'clock p. m., Daniel Twohig, president, at 2.20 o'clock p. m., Henry Hinnenkamp, business agent, at 1.50 o'clock p. m., John Prindle, president, at 7 o'clock p. m., and Henry Hinnenkamp, business agent, at 1.50 o'clock p. m., by delivering to each personally a true copy of this writ with all the indorsements thereon. The other within-named defendant not found.

SALMON JONES,
Sheriff of Hamilton County, Ohio,
By ROBERT SWEENY, *Deputy.*

Sheriff's fees, $9.

EXHIBIT F.

BILL OF COMPLAINT.

In the Circuit Court of the United States for the Eastern District of Kentucky. In equity. (Filed January 9, 1905.)

The Newport Foundry & Machine Co., a corporation organized under the laws of the State of New Jersey, complainant, *v.* The Iron Molders Union of North America, Joseph Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor. Iron Molders' Union No. 20, Henry Hinnenkamp, business agent. Iron Molders' Union No. 432, John Prindle, president; Henry Hinnenkamp, business agent; and William Oberjohn, secretary; James Peters, Paul Lindholz, Albert Sandner, James Moore, Michael Attendorn, and "Red" Limerick, defendants.

To the judge of the United States Circuit Court for the Eastern District of Kentucky:

The complainant, the Newport Foundry & Machine Co., a corporation duly organized under the laws of the State of New Jersey, and a resident citizen of said State, brings this, its bill, against the Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor. Iron Molders' Union No. 20, Henry Hinnenkamp, business agent. Iron Molders' Union No. 432, John Prindle, president; Henry Hinnenkamp, business agent; and William Oberjohn, secretary; James Peters, Paul Lindholz, Albert Sandner, James Moore, Michael Attendorn, and "Red" Limerick, citizens of Kentucky, in Campbell County of said State.

And thereupon your orator complains and says:

First. That the matters in dispute in the above entitled suit exceed, exclusive of interests and costs, the sum of $2,000. That it is a corporation created by and duly organized and existing under and by virtue of the laws of the State of New Jersey, for the purpose among others of manufacturing and selling gray-iron castings. That on December 5, 1904, it purchased the foundry, real estate and business of the Newport Iron Co., a corporation organized under the laws of the District of Columbia. That immediately thereafter, to wit, upon the 5th day of December, 1904, it entered into possession of all said property purchased by it as aforesaid, and that from and after said date up to the present time, it has been engaged in the manufacture of gray-iron castings at and upon said property, and with the machines and appliances so purchased.

It says that immediately preceding its purchase of said property as aforesaid, the said the Newport Iron Co. had been and was engaged at said place, and upon and with said property, in said business of manufacturing castings of said metal, and that said business had been engaged in as aforesaid by it from the 21st day of November, 1904, until the sale as aforesaid to this complainant.

It says that upon said 21st day of November, 1904, the said Newport Iron Co. purchased said property from the Newport Iron & Brass Foundry, a corporation created and organized by and under the laws of the State of Kentucky, and that for many years next preceding said last named day, said Newport Iron & Brass Foundry Co. had at said place and upon and with said property, manufactured castings of said metal; that said business as carried on as aforesaid by the said companies, before the doing of the things by the defendants herein complained of, was very extensive and large and profitable.

That complainant has employed and engaged in said business a capital of $50,000, and that when permitted to conduct said business without hindrance from defendants it has employment for and will employ continuously not less than 100 men.

Your orator further states that the men employed by the Newport Iron Co., the predecessor of complainant in this business, belonged to trades-unions, which are distinct and organized associations in Covington and Newport, defendants hereto, each having regular executive officers and bearing the following names, viz, the Iron Molders' Union of North America, being the national union of iron molders; Iron Molders' Union No. 20, and Iron Molders' Union No. 432, being local unions subordinate and under control of said national union.

That these unions are secret organizations and conduct all their business in privacy and secrecy and each has complete control over its members, respectively, and complainant is unable to obtain the names of the executive officers of said lodges or of their members, respectively, for that reason except the following:

The Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John

P. Frey, editor. Iron Molders' Union No. 20, Henry Hinnenkamp, business agent. Iron Molders' Union No. 432, John Prindle, president; Henry Hinnenkamp, business agent; and William Oberjohn, secretary; and James Peters, Paul Lindholz, Albert Sandner, James Moore, Michael Attendorn, and "Red" Limerick, members and agents of said unions, and that they are all acting through said defendants, Joseph F. Valentine, Henry Hinnenkamp, and Paul Lindholz, in maintaining, directing, and conducting the present strike against this complainant.

Second. Your orator complains that prior to September 3, 1904, the said defendant unions, through their said several executive officers and their members, entered into an unlawful conspiracy and agreement among themselves and divers other persons now unknown to complainant (who it prays may be made defendants hereto on discovery of their names) to form and carry into execution a strike in 11 of the manufacturing concerns employing molders in Covington, Newport, and Cincinnati, including the foundry of the Newport Iron & Brass Foundry Co., now the foundry of complainant; that the object of such strike was to break up the employment, whether the same was existing by contract or otherwise, of all molders engaged in said foundry, and that through such means, or any other means that might be found necessary, force them to withdraw and desist from work in said foundry, and to prevent others, not members of such unions, from accepting employment therein, and to stop and destroy said foundry's business, and to deprive it of its employees and drive them away, and to prevent others not theretofore so employed and not members of any of said unions from filling the places so made vacant; also to persist in this unlawful course and conspiracy until and unless certain exactions made by said defendant unions upon complainant were complied with, and that the exactions so made were in substance and effect as follows:

First. That on and after August 1, 1904, the minimum rate of wages to be paid to floor molders shall be $3.20 per day, and to bench molders $3 per day, and to coremakers $2.50 per day of ten hours.

Second. That all overtime, except in cases of accident or causes beyond control not consuming more than 30 minutes time, shall be paid for at the rate of time and one-half time, and double time for Sundays and legal holidays, to wit, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

Third. All local conditions for molders to remain in force as heretofore.

Your orator further states that the execution of said conspiracy was begun on the 6th day of September, 1904, through and in pursuance of an order made and issued by direction of the defendant unions acting through their executive officers and said defendants, Joseph Valentine, Henry Hinnenkamp, and Paul Lindholz; that in obedience to said order nearly all of the employees of the Newport Iron & Brass Foundry Co. quit work on that day, and refused to continue in the employ of said company, and thereupon and thereafter, through various means, said defendants and said conspirators prevented said company and complainant from filling the vacancies so made, and so succeeded in practically stopping the business of said company and this complainant; that among the means resorted to by said conspirators was and is that of selecting and detailing large numbers of persons called "pickets" to constantly watch and beset the approaches to said foundry, and to congregate at and near said foundry in large numbers to intimidate and coerce, by threats, abuse, violence, and other means, persons willing and attempting to approach said foundry for the purpose of entering into the employment and work of said company, and likewise to intimidate and coerce by like measures such of said persons as have succeeded or shall succeed in reaching said foundry and entering upon work there in the place of the strikers when such persons are going to or leaving their said work, such threats, abuse, and violence, consisting in substance and effect of statements made by said pickets to the persons aforesaid that such pickets and the union members generally will succeed in said strike and will return to their old employment and will not then suffer said persons to work in their presence or in the presence of any other union men in this city or vicinity or in the presence of any other union men in any other city, declaring they will take and distribute their photographs for the purpose of identification and ostracism and exclusion from work at any place or time; consisting also of epithets used against the persons so seeking and desirous of entering into and continuing in such employment, such as "traitors" and "scabs," at the same time laying violent hold upon their persons and pushing and jerking them amid jeers and laughter which terrorize them and are calculated to and do humiliate and disgrace them among the classes they are accustomed to associate and work with; consisting also in some instances of actual assaults upon such persons, and consisting also of visits to their homes where threats of assaults and batteries upon the persons so seeking or continuing employment with complainant are made to their wives, mothers, sisters, or other helpless and dependent members of their families, unless the latter will

promise to use and employ their influence to prevent such persons from working or offering to work and from keeping their contracts to work against the fiat of the unions or the wishes of the pickets and strikers, and said defendants so frighten them into making entreaties and otherwise exerting their influence to prevent such persons from entering or continuing in such employment; that by these and similar acts said pickets have taken and kept away from complainant many of the men it has been able to employ, and have materially and irreparably impaired and injured its said business, and but for such acts the places of said employees could and would easily be filled by persons willing and anxious to work.

Your orator further states that the pickets so detailed for and placed and kept at said foundry are not all kept there continuously, but many of them are changed from day to day from one foundry to another, though all were engaged in a common purpose to accomplish a common end, to wit, to prevent persons willing to work from entering or continuing in the employment of complainant; that another object as well as the result of these changes of pickets from place to place is to prevent complainant from obtaining all the names of the pickets and so from enforcing complainant's lawful rights in the premises; that the changes made are accomplished by sending former employees of said complainant to some other foundry, and former employees of that foundry to complainant's foundry, and so on through the entire list of manufacturing concerns affected by the conspiracy and strike aforesaid; that the pickets so detailed and placed were at the time the strike was ordered and commenced as aforesaid mostly taken from their respective shops, including the shop or foundry of this complainant, and placed around the same to do and perform the acts hereinbefore recited, but the succession of changes was soon thereafter commenced and has ever since been carried out in the manner aforesaid.

Your orator further states that since the 5th day of December, 1904, complainant and its predecessor have been compelled, through said acts of defendants hereinbefore complained of, to purchase a house adjoining said foundry, to board and lodge 12 employees, whom complainant has been able to employ to take the positions made vacant by the striking molders, and which but for the acts hereinbefore complained of would be unnecessary, as said employees would rather live at their residences or boarding houses than in said foundry; that complainant has been compelled to erect a high board fence inclosing said foundry and said house, to prevent the molestation of these employees by defendants, and that since the erection of said wall and the house of said employees the defendants, their agents, and abettors have harassed and intimidated said complainant and said employees by threats and abusive names, by shooting through said foundry and said dwelling house, and have on occasions attempted to dynamite said foundry.

Your orator further states that the defendants have erected on a vacant lot adjoining complainant s premises a shed for the purpose of having a harbor for the pickets and to be in such position as to further harass complainant and its employees; that complainant has called upon the municipal authorities and police of Newport and the county authorities of Campbell County, but said authorities have been powerless to aid it, and it has no redress except in a court of equity.

Your orator further states that the congregations of persons commonly called pickets, to patrol and control the approaches to and surroundings of complainant's foundry, and the loitering and boisterous conduct of such persons are calculated to and do attract other unemployed and lawless characters in such numbers as to intimidate and menace other persons who are willing to go to and from said foundry as ordinary molders and laborers do when engaged in work therein; that the collections of some of the same persons and others employed and engaged in said strike who intercept persons who are so willing to work at complainant's foundry either in going to the same or away from the same, from or to their homes, and who congregate at the homes of such persons and there make the threats and do the acts hereinbefore recited, are likewise calculated to and do attract other idle persons who unite and join in the performance of the acts mentioned; that such conduct and all these acts irreparably affect and injure complainant's property and business aforesaid and prevent it from carrying on said business or pursuing its lawful rights and privileges in connection therewith; and that the said conduct and several acts hereinbefore complained of, done and performed on the part of the defendants and those associated with them, whose names are not given for reasons hereinbefore stated, have continued against the Newport Iron & Brass Foundry Co. ever since September 3, 1904, and against the Newport Iron Co. since November 21, 1904, and against complainant's foundry ever since December 5, 1904, and will continue unless the relief prayed for herein is granted, and that said acts cause not only irreparable damage to the property, rights, and business of this complainant, but they constitute and are a continuing nuisance to the same; that the most, if not all, of the defendants are persons of little

or no means, and would be unable to respond to an action of damages brought against them by complainant for and on account of the acts and things herein alleged, and for which acts and things the complainant is without remedy save and except in a court of equity.

Your orator further states that the persons other than those named as defendants herein who have been congregating and loitering in front of and in the neighborhood of complainant's foundry and have been thereby aiding and abetting said defendants in the lawful acts by them done, as hereinbefore stated, are too numerous for it to make them all parties to this bill, even if complainant could obtain their names, which it can not do, but complainant avers and shows that the members of the said several defendant unions are in combination and are associated together in an unlawful enterprise, and that complainant should not be obliged to make all said members of said interference with the business of said complainant parties to this bill, but that complainant should be permitted to proceed against the representatives of said defendant unions, to wit, their executive officers, together with said defendants, Joseph F. Valentine, Henry Hinnenkamp, and Paul Lindholz, and such other members of said unions whose names may from time to time be ascertained and who are guilty of the unlawful practices herein alleged.

To the end that your orator may obtain the relief to which it is justly entitled in the premises, it now prays the court to grant it due process, by subpœnas directed to said defendants hereinbefore named, requiring and commanding each of them to appear herein and answer, but not under oath, the same being expressly waived, the several allegations in this, your orator's, bill contained.

And your orator further prays the court to now grant it a writ of injunction, until the further order and decree of this court in the premises, restraining and enjoining the said defendants, and each of them, their agents, servants, employees, and members, and any and all other persons that may be associated with them in committing the acts and grievances complained of in said bill, from in any manner interfering with, hindering, obstructing, or stopping any of the business of the complainant or its agents, servants, or employees in the operation of its said foundry, or in bringing materials to the same or taking manufactured castings, goods, or products away from the same to any place desired; and from entering upon the grounds or premises of complainant for the purpose of interfering with, hindering, or obstructing its business in any form or manner; and from compelling and inducing, or attempting to compel or induce, by threats, intimidation, coercion, force, or violence, any of the employees of complainant, or persons wishing or willing to become such, to refuse or fail to perform their duties as such employees, whether under contract or otherwise, or to refuse or fail to become such employees; and from compelling or inducing, or attempting to compel or induce, by threats, intimidation, coercion, force, fraud, or violence, any of the employees of complainant to leave the service or employment of complainant, and from doing any act whatever in furtherance of any conspiracy, combination, agreement, or design to obstruct or impede complainant, or any of its officers or employees, in the free and unhindered control of its business; and from ordering, directing, aiding, assisting, or abetting in any manner whatever any person or persons to commit any of the acts aforesaid; and from congregating at or near the premises of complainant in Newport, Ky., for the purpose of intimidating or coercing or in any manner impeding its employees or other persons willing to become such, or coercing them or preventing them from rendering their service to complainant, and from inducing or coercing, by threats, intimidation, or fraud, said employees or other persons willing to become such to leave or abstain from entering the employment of complainant, and from interfering, by threats or any other act of intimidation, with the complainant in carrying on its business in the usual and ordinary way; and from in any way interfering with and molesting any person or persons who may be employed or seeking employment with complainant in the operation of its foundry or business; and from collecting in and about the approaches to complainant's foundry for the purpose of picketing, besetting patrolling, or guarding the streets, avenues, doors, gates, and approaches to the property of complainant for the purpose of intimidating, threatening, or coercing or in any manner impeding any of the employees of complainant or any person seeking the employment of complainant, and from interfering with the employees of said complainant or with any other person in going to and from the foundry or property of complainant in the prosecution of their daily work or other business to be there done; and from going, either singly or collectively, to the homes, boarding houses, or habitation of complainant's employees, or of any other person wishing to become such, for the purpose of intimidating or coercing any or all of them to leave the employment of complainant or from entering its employment, and as well from intimidating or threatening in any manner the relatives, wives, and families, or any of the members thereof, of said employees of complainant at their homes or elsewhere.

And your orator further prays that upon final hearing hereof the foregoing injunction may be made perpetual, and that such other and further relief may be granted in the premises as shall seem to the court to be just and equitable.

CHARLES F. WILLIAMS,
JAMES C. & B. A. WRIGHT,
Attorneys for Complainant.

STATE OF KENTUCKY,
County of Campbell, ss:

Henry J. Weber, being first duly sworn, deposes and states that he is complainant in the above bill of complaint and that the facts stated in said bill of complaint are true.

HENRY J. WEBER.

Sworn to before me and subscribed in my presence this 9th day of January, 1905.

JOS. C. FINNELL, *Clerk.*

AFFIDAVIT OF HENRY WEBER.

In the Circuit Court of the United States for the Eastern District of Kentucky. In equity. (Filed January 10, 1905.)

The Newport Foundry & Machine Co., a corporation, etc., complainants, *v.* The Iron Molders' Union of North America et al., defendants.

STATE OF KENTUCKY,
County of Campbell, ss.:

Henry Weber, being first duly sworn, deposes and states that he was general manager and secretary of the Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, which company was organized for the purpose, among others, of manufacturing gray iron castings; that it has a large capital invested in said business, to wit, about $50,000, and that for the successful operation of said business it was necessary to employ about 100 men; that said men employed by defendant were members of the Iron Molders' Union of North America, and the locals, Iron Molders' Union No. 20 and Iron Molders' Union No. 432; that on September 3, 1904, said workmen inaugurated a strike against said company, for its nonagreement to pay certain demands made by them against said company, which demands are fully set forth in the bill of complaint filed herein.

That on the 19th day of September, 1904, five employees of affiant were beaten with fists, slung shots, and other weapons in the hands of his former employees for taking the places so made vacant by the striking molders. That several days later he obtained from the United States Circuit Court for the Southern District of Ohio, Western Division, an injunction against his former employees, but which injunction was violated by said parties.

Affiant further states that for the further protection of the men whom he secured to fill the places made vacant by the strikers he purchased a 2-story brick dwelling, adjoining said foundry, and inclosed said foundry and house by a high board fence, about 8 feet high; and on or about October 30, 1904, while fitting said place for the accommodation of his men the house was broken and entered and robbed of its bedding, cots, chairs, kitchen utensils, etc.; that he refitted said building and boarded and housed the men, about 12 in number, in said building.

That between November 3, 1904, and December 3, 1904, the following acts were committed:

November 2. About 9 p. m. Special Policeman William Eng and the foreman of night gang, George Bass, were shot at while eating lunch in the foundry, one shot striking within 2 feet of William Eng. The police were notified, but no arrests were made.

November 7. At 11 p. m. a crowd of men shot through the windows of the boarding house. The police were telephoned for assistance, and arrived a few hours later.

November 8. At 5.15 p. m. rocks were thrown through the windows of the foundry at the molders while they were pouring hot iron in the molds.

November 10. The first dynamite bomb exploded in the foundry, about 10 feet from boarding house.

November 20. At 2 a. m. stones were thrown and shots were fired through the windows in the foundry.

November 20. At 11 p. m. fuse on dynamite bomb was seen burning by Supt. Shanley in front of the building. Mr. Shanley cut the fuse. While doing so, was

thrown against the building by another bomb, which exploded near him. His left eardrum has been permanently injured.

November 21. Dynamite bomb exploded near boarding house of nonunion men and west end of foundry, and many revolver shots were fired.

December 2. Bomb thrown into yard of foundry. The fuse was detached by striking a tree and cap only exploded.

Affiant states that he is president of the Newport Foundry & Machine Co., a corporation organized under the laws of the State of New Jersey, and that said company was organized on December 2, 1904, and on December 5, 1904, it purchased and there was transferred to it the business, property, and effects which had been the property of the Newport Iron & Brass Foundry Co. Said the Newport Iron & Brass Foundry Co. having transferred said property to the Newport Iron Co., and said last-named company having transferred it to the Newport Foundry & Machine Co. And that the said Newport Foundry & Machine Co. is continuing the business at the same place, and it is necessary to have the same number of men employed, to wit, 100 men, and that the same acts by the employees are being done against the new company as had been done against the old company.

That on the 11th day of September, at 11.30 p. m., the skylights in the core room were blown up, window glass and frames blown out of the pattern shop by a dynamite-bomb explosion.

Affiant states that on December 3, 1904, at 10 o'clock p. m., Joseph Palmer's stable was burned with a total loss of about $3,000 under very suspicious circumstances; that this party had a contract for hauling castings for the foundry, and since the strike has been threatened by strikers. An attempt was made by a party to cut the hose while the fire was at its fiercest.

Affiant further states that about two months ago the former employees, who are now on a strike, erected a shanty about 150 feet from the foundry, in which shanty they congregate and keep tab on every person leaving or entering the foundry.

Affiant states that on the 12th day of December, 1904, he recognized Henry Hinnenkamp, James Petrie, Michael Attendorn, William Tressler, and Robert Fullner on the roof of a house adjoining the foundry and overlooking the brick house and the yard of the foundry, hooting and jeering at said men and saying in a sarcastic manner that "they would give them union cards." On said day, at 1.15 p. m., affiant recognized Lindholz, Tressler, Zeis, and Huepel, and at 3.10 p. m. on said day Sanders, Lindholz, and Tressler; that all of said men are members either of Iron Molders' Union No. 20 or Iron Molders' Union No. 432, which unions are local to the Iron Molders' Union of North America and part of said national body.

Affiant further states that he is put to great expense in being compelled, through the acts of intimidation on the part of the defendants in this cause, and that the large capital invested by said company in this business is suffering. That said company has large contracts on hand which they are unable to fill and which, but for the acts of defendants herein, they would be able to fulfill.

Affiant further states that on November 10, 1904, on account of the strike conditions there existing, the fire at Palmer's stable and the dynamite-bomb explosion, all the insurance companies holding insurance policies on said foundry canceled same, and although he has used every endeavor possible he has been unable to secure any adequate insurance on said building.

Affiant further states that about 10 men have been continuously and daily picketing the premises of said company since December 5, 1904, and previous to that time.

Affiant further states that said company has been dealing for many years with Fisher Bros., a partnership doing business in Newport, Ky., in the hardware business, and the Newport Sandbank Co., a corporation delivering to said company molding sand, and that said firm and corporation have refused, and still refuse, on account of said strike, to deliver said goods and wares which are necessary for the carrying on of said business of said company for fear of being boycotted or having their drivers assaulted by the defendants in this cause.

HENRY J. WEBER.

Sworn to and subscribed before me this 9th day of January, 1905.

BENJ. A. WRIGHT,
Notary Public in and for Campbell County, Ky.

My commission expires January 10, 1908.

AFFIDAVIT OF FRED SOHL.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* The Iron Molders Union, etc., defendants.

STATE OF KENTUCKY, *County of Campbell:*

Affiant, Fred Sohl, being duly sworn, says that he is 26 years of age, a resident of Mansfield, Ohio, the same Fred Sohl that makes affidavit of January 5, 1905, relative to other matters concerning the matters occurring at the Newport Foundry & Machine Co., of Newport, Ky., and that since making foregoing affidavit affiant states that on Saturday, January 7, 1905, about 5 p. m., that he, in company with Aug. Sommerfeldt, a molder employed at the foundry, and F. N. Shanley, superintendent of same, left the foundry to go to Cincinnati, Ohio. Upon reaching Eleventh and Brighton, Newport, Ky., two men, one Fred Knan, an ex-union iron molder, and William Tressler, a striking molder, member of the Iron Molders Union of North America and Local No. 20, followed them from that point to Eleventh and Patterson, where William Tressler began using obscene and profane language to them, making threats, and striking at Shanley several times with brass knucks, same blows being warded off by Shanley, he not striking back, they compelling him to back up about 20 yards. While this was occurring six men came out of a saloon near by, running up to Shanley, when affiant and Aug. Sommerfeldt boarded the car.

Affiant now states that William Tressler is the same man that was in the crowd at Twelfth and Brighton on Saturday eve, December 31, 1904, and is the one that said, "If I could kill that ——— ———, I would be willing to die," which is narrated in the affidavit of affiant of date January 5, 1905.

FRED SOHL.

Subscribed and sworn to by affiant, Fred Sohl, before me this 9th day of January, 1905. Witness my hand and notarial seal this 9th day of January, 1905.

HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

My commission expires January 11, 1906.

(Filed January 10, 1905.)

COMMONWEALTH OF KENTUCKY,
County of Campbell, ss:

The affiants, citizens of the city of Newport, Campbell County, Ky., say that they are residents of the city of Newport, Ky., and live or are in business in the neighborhood of the Newport Foundry & Machine Co.; that they are in no way directly or indirectly connected with said molders except as citizens and business men, and that they have watched the trouble daily; that there has been no disturbances or breach of the peace on the part of the strikers, but that to the best of their knowledge and belief all disturbing of the peace has been done by the imported employees of said Newport Foundry & Machine Co.

The affiants say that the statements in the foregoing are true to the best of their knowledge and belief.

JAMES O'BRIEN.
JOHN P. MAGEE,
Butcher, 223 West Ninth Street, Newport.
THEODORA BUCH,
227 West Ninth Street.
GEO. KOHNAN,
Ninth and Isabelle.
JAMES H. FITZSIMMONS,
G. SCHNEIDER.
W. J. SUTTON.
FRED VETTER.

Subscribed and sworn to before me by James O'Brien, John P. Magee, Theodora Buch, Geo. Kohnan, Jas. H. Fitzsimmons, G. Schneider, W. J. Sutton, and Fred Vetter, this 9th day of January, 1905.

C. T. BAKER,
Notary Public, Campbell County, Ky.

(Filed January 10, 1905.)

COMMONWEALTH OF KENTUCKY,
County of Campbell, ss:

The affiant, Daniel Reidel, sheriff of Campbell County, says that he has investigated the surroundings concerning the molders strike at the Newport Foundry & Machine Co., and that there has been no acts of violence on the part of the strikers to his knowledge; that none of the strikers have been arrested to his knowledge, nor so far as he knows has there been any reason to arrest them, and that so far as he knows, the strikers have shown themselves to be peaceful and law-abiding citizens; that he has had no occasion to make any arrests.

The affiant says that the statements in the foregoing are true to the best of his knowledge and belief.

DANIEL RIEDEL,
Sheriff Campbell County.

Subscribed and sworn to before me by Daniel Riedel, sheriff of Campbell County, Ky., this 9th day of January, 1905.

[SEAL.]

C. F. BAKER,
Notary Public, Campbell County, Ky.

(Filed January 10, 1905.)

COMMONWEALTH OF KENTUCKY,
County of Campbell, ss:

The affiants, of the city of Newport, Campbell County, Ky., say that a strike of members of the Iron Molders' Union No. 20, against the Newport Foundry & Machine Co., of Newport, Ky., has been in progress in the neighborhood of four months against they believe an effort on the part of the Newport Foundry & Machine Co., to reduce wages, that there was imported into the city of Newport, Ky., certain persons to be employed by them pending this trouble, that the police department, and the city and county officials have been vigilant and have made a thorough investigation of the conditions surrounding the Newport Foundry & Machine Co., and that there has been no acts of violence on the part of the strikers to the best of their knowledge and belief; that none of the strikers have been arrested nor has there been any reason to arrest them and that the strikers have shown themselves to be peaceful and law-abiding citizens; that on the other hand, that all disturbances and the breaking of the peace has been done on the part of the imported employees of the said Newport Foundry & Machine Co., that Frank Shanly, superintendent of the Newport Foundry & Machine Co., has been arrested for an assault with a deadly weapon, and is now under bond pending trial; that John Marles, an employee of the Newport Foundry & Machine Co., has been arrested for drunk and disorderly conduct and carrying concealed deadly weapons, and is now under bond pending trial; that Thomas Sadler, an employee of the Newport Foundry & Machine Co., was arrested for carrying concealed deadly weapons and was fined $25 and 10 days in jail; that William Eng, an employee of the Newport Foundry & Machine Co., was arrested for breach of the peace; affiants also state to the best of their knowledge and belief that none of the molders now in the employee of the Newport Foundry & Machine Co., are bona fide residents of the city of Newport, Ky., or the State of Kentucky.

The affiants say that the statements in the foregoing are true to the best of their knowledge and belief.

H. H. DEPUTY,
Chief of Police, Newport, Ky.
A. HELMBOLD, Jr.,
Mayor of Newport, Ky.

Subscribed and sworn to before me by H. H. Deputy, chief of police of Newport, Ky., A. Helmbold, M. D., mayor of Newport, Ky., this 9th day of January, 1905.

C. T. BAKER,
Notary Public, Campbell County, Ky.

ORDER FOR INJUNCTION.

In the Circuit Court of the United States for the Eastern District of Kentucky. In equity. (Entered and filed January 10, 1905.)

The Newport Foundry & Machine Co., a corporation organized under the laws of the State of New Jersey, *v.* The Iron Molders Union of North America, Joseph F. Valentine, president, E. J. Denney, secretary, Victor Kleiber, assistant secretary, R. H. Metcalf, financier, John P. Frey, editor; Iron Molders' Union No. 20, Henry Hinnekamp, business agent; Iron Molders' Union No. 432, John Prindle, president, Henry Hinnekamp, business agent, and William Oberjohn, secretary; James Peters, Paul Lindholz, Albert Sander, James Moore, Michael Attendorn, and "Red" Limerick, defendants.

This cause came on for hearing upon the motion of the plaintiff filed herein for an order of injuunction and was heard upon the petition and the affidavits of F. N. Shanley, Fred Sohl, William Weber, Joseph Palmer, William Eng, John Racel, Martin Bauries, Albert Holz, Jacob Kellar, Edward Kellar, and Jacob Schardt, filed on behalf of the plaintiff (and the defendants appearing in court by their attorney, Martin F. Durrett), and upon the affidavits of James O'Brien, John P. Nagel, Theodore Bush, George Kohnen, James H. Fitzsimmons, G. Schneider, W. J. Sutton, Fred Vetter, Daniel Riedel, sheriff of Campbell County, Ky., H. H. Deputy, chief of police, Newport, Ky., and A. Hembold, mayor of Newport, Ky., filed on behalf of defendants; and upon consideration whereof the court do order that a temporary injunction do issue as follows:

That, having regard to the matters in said bill contained, do hereby command and strictly enjoin you, the said The Iron Molders' Union of North America; Joseph F. Valentine, president, E. J. Denney, secretary, Victor Kleiber, assistant secretary, R. H. Metcalf, financier, John P. Frey, editor; Iron Molders' Union No. 20, Henry Hinnekamp, business agent; Iron Molders Union No. 432, John Prindle, president, Henry Hinnekamp, business agent, and William Oberjohn, secretary, James Peters, Paul Lindholz, Albert Sander, James Moore, Michael Attendorn, and "Red" Limerick, and each of them, their confederates, servants, or agents, and any and all persons aiding and abetting them, or any of them, now or hereafter, to absolutely desist and refrain from hindering, obstructing, or stopping any of the business of the Newport Foundry & Machine Co., in the city of Newport, county of Campbell, Ky., or elsewhere.

Also from entering upon the grounds or places where the employees of the Newport Foundry & Machine Co. are at work for the purpose of and in such manner as to interfere with, hinder, or obstruct the business of the Newport Foundry & Machine Co. in any manner whatsoever.

Also from compelling or inducing or attempting to compel or induce, by threats, intimidation, force, or violence, any of the employees of the Newport Foundry & Machine Co. to refuse or fail to do their work or discharge their duties as such employees.

Also from compelling or inducing or attempting to compel or induce, by threats, intimidation, force, or violence, any of the employees of the Newport Foundry & Machine Co. to leave its service.

Also from preventing or attempting to prevent any person or persons by threats, intimidation, force, or violence from freely entering into the service or employment or continuing in the service or employment of the Newport Foundry & Machine Co.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, force, or violence, any person or persons whomsoever from assisting and aiding the Newport Foundry & Machine Co. in the conduct of its business and from doing any act whatever in furtherance of any conspiracy or combination to restrain or obstruct the operation of the business of the Newport Foundry & Machine Co.

Also from ordering, aiding, assisting, or abetting, in any manner whatever, any person or persons to commit any or either of the acts aforesaid.

Also from congregating or being upon or about the sidewalks, streets, alleys, or approaches, adjoining or adjacent to where the said employees of said Newport Foundry & Machine Co. may be for the purpose and in such a manner as to intimidate said employees or coerce said employees or any of them from rendering their service or discharging their duties to the Newport Foundry & Machine Co.

Also from inducing or coercing by threats, force, or violence, any of the employees of the Newport Foundry & Machine Co.

Also from in any manner interfering with the Newport Foundry & Machine Co., in carrying on its business in the usual and ordinary way.

Also from acting in such a manner as to intimidate or in any manner interfering with or molesting any person or persons who may be employed by or who may be seeking employment with the Newport Foundry & Machine Co. in the operation of its business.

Also either singly or in combination with others from collecting in and about the approaches to the place of business of the Newport Foundry & Machine Co. for the purpose of picketing or patrolling or guarding the streets, avenues, gates and approaches to the place of business of the Newport Foundry & Machine Co., in such a manner as to interfere with the business of the Newport Foundry & Machine Co. or its employees or in such a manner as to threaten, coerce, or frighten any of the employees of the Newport Foundry & Machine Co., or cause its employees to leave and abandon their employment with the Newport Foundry & Machine Co.

Also from preventing any person or persons from seeking employment with the Newport Foundry & Machine Co.

Also from interfering with the employees of the Newport Foundry & Machine Co. in going to and from their daily work at the Newport Foundry & Machine Co.'s place of business.

And also from going either singly or collectively to the homes of the employees of the Newport Foundry & Machine Co., or any or either of them for the purpose of and in such a manner as to intimidate, or coerce any or all of the said employees to leave the employment and service of the Newport Foundry & Machine Co., or prevent any person or persons from entering its employment or service.

And also from intimidating and threatening in any manner the wives and families of said employees at their homes or elsewhere.

And it is further ordered that this order shall be enforced and binding upon each of the defendants, and all of them named in the bill, from and after service upon them of said order by delivering to them a copy, or by reading the same to them, and shall be binding upon defendants whose names are alleged to be unknown, from and after publication thereof by posting or printing and shall be binding upon all defendants and all other persons whatsoever from and after the time they severally have knowledge of this order.

Which commands and injunction you are respectively required to observe and obey until our said circuit court shall make further order in the premises. Upon defendants' motion to set aside the foregoing order, and the plaintiff's motion to perpetuate the same, both this day filed, said motions are set for hearing on January 24, at 9 o'clock a. m., at Covington, Ky., and this injunction will be in force until said hearing.

A. M. J. COCHRAN, *Judge.*

JANUARY 10, 1905.

United States Circuit Court, Eastern District of Kentucky. (Filed January 10, 1905.)

The Newport Foundry & Machine Co., a corporation, complainant, *v.* The Iron Molders' Union, etc., defendants. } Affidavit of F. N. Shanley.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, F. N. Shanley, being duly sworn, says that the is 41 years of age, a resident of Newport, Ky.; that he is employed at the Newport Foundry & Machine Co., situated in Newport, Campbell County, Ky., as superintendent, and has been so employed by said company and its predecessors since November 9, 1904, and has continued to be so employed up to the present date.

Affiant states that the first dnyamite was exploded on the night of November 10 4½ feet from the boarding house of said Newport Foundry & Machine Co. and directly opposite Thirteenth Street between the hours of 10.10 and 10.20, which explosion caused a large hole to be made in the ground, jarring the building to such an extent that it threw the said nonunion molders out of their beds upon the floor.

Affiant further states that on November 19 there were nine hours' continuous picketing and stoning of the said foundry, and discharging of a double-barrel shotgun at the skylights of the said foundry.

November 20, while watching a couple suspicious men from the pattern shop windows, in the direction of the said shanty, affiant saw one man run across the street, toward the said foundry. Then both of said men started toward Lowell Street and went across the railroad tracks into the brickyard sheds and disappeared. Affiant then came from the pattern shop to the said walk to ascertain the cause. Affiant came through the foundry, and in going out of the door saw a stream of steam, as he thought; it was after night. Knowing that there was no exhaust pipe there nor

steam from the boilers, affiant went to the place to ascertain what the trouble was. Affiant further states: "I kneeled down, and there was a stick of dynamite. Across the sidewalk was a fuse. I grabbed it up and tried to pull it out of the dynamite but could not. I then took my knife and cut the fuse off about 5 or 6 inches from the dynamite. As I arose to my feet, an explosion took place in the gutter, which explosion threw me up against the building and fractured the drum of my ear, of which I feel the effects to this day. It also partly paralyzed my right side. I was assisted to the office of the foundry by William Eng, a special policeman employed by the Newport Foundry & Machine Co., where I remained for an hour. After recovering from the shock I went to my home at 16½ West Fourth Street and remained until the next day and until I had consulted a physician to see if I was seriously hurt or not.

"On the night of November 21 there were three explosions, two at the rear of said foundry, and one on the end of the foundry, and after the explosions occurred, I noticed four men emerge from the gulch over where the explosions had been and go to the shanty to change their garments and disguises, and proceed up street. These men were Paul Lindholz, John Berkley, Nicholas Attendorn, all iron molders, members of the Iron Molders' Union of North America, Local No. 20, and also one named James Petri. These four men I saw immediately after the explosion, and saw them running over to the shanty.

"On December 10, about 10.30, I had just made my rounds of the entire building, and stepped into the office, and was stirring up the fire when I heard an explosion. It was a very hard matter to tell in which direction the explosion took place until I got outside and smelled the smoke. I discovered the damage in the core room. Going to the pattern shop, I saw that the entire frames and windows of the pattern shop were blown out and the skylights of the core-room windows were all blown out.

"On the night of December 23, at the rear end of the flask, pig iron, and coke yard, there was another terrific explosion, which occurred about 10.30 p. m. Nobody could ascertain what damage was done either on the inside or outside.

"On Saturday evening, December 24, I, in company with five of the molders employed at the Newport Foundry & Machine Co., viz, Aug. Summervelt, Oscar Mooney, W. E. Lafferty, Martin Bauries, and Chas. Thorpe, left the foundry to go home about five minutes to 6 o'clock, and arrived about 6 o'clock at the street car barns, corner of Eleventh and Brighton Streets, Newport, Ky. I stood on the southeast corner, and the other men who accompanied me went over to the northwest corner, and while there were waiting there for a car, seven men came out of a saloon and said to the said men who accompanied me and began to ask them questions. One of the men, Martin Bauries, called over for me, and I started over, and four of the nonunion men came over to me, followed by several of the others, while the balance attacked Bauries. A number of other strikers then crowded in, and I had my hands full protecting the men who were with me, and finally got them into the car barns and on a car. Meanwhile Bauries was attacked and beaten by four of the crowd, two holding him while two more beat him. Two policemen then came, and I called on them to arrest the men who had made the assault, which they did not do, although defied by the strikers to do so, one of them saying, 'Arrest me, you ——— of a ———, I did it, and I want the arrest of them.' We brought Bauries home, and telephoned for a doctor, who came in about an hour, and examined Bauries's wounds, one of which consisted of a cut from some blunt instrument, laying open the scalp nearly 3½ inches long, and nearly fracturing the skull. Mr. Bauries's head and face were covered with blood, his eyes were black, and his teeth kicked loose, and otherwise badly bruised about the body, and finger marks about the throat where they choked him. Subsequently I placed him on a car and sent him to his home in Cincinnati, Ohio, and saw about 20 men going after the car as if they meant to board it and attack him, which I learned subsequently they did. Mr. Bauries is the cook employed at the boarding house of the said foundry company.

"The shanty above referred to was erected about Thanksgiving, and is occupied by and made a pay station and general headquarters for the striking molders in watching who enters and who leaves the said foundry. I have seen Alfred Sander, Paul Lindholz, Louis Felder, Alfred Deidrick, Hermann Bolman, Emil Deihl, John Berkley, James Moore, and Nicholas Attendorn, all striking molders, and could identify them at any time or at any place, lounging about the said foundry premises, and also Red Limerick, James Petri, George Seimer, Morley, and, in fact on an average, especially on Saturdays, of from 25 to 30 men congregated in and about the said shanty and about the works, calling the employees in the works ——— of ———, bastards, and other vile names. Paul Lindholz on one particular time asserting, 'You will not work long. We will bust the firm. If we can't do it one way, we will another.'

"On January 2, 1905, about 8.35 a. m., when the wagons were coming into the yard with pig iron, several of the strikers were across the street, among them I recognized

Albert Sander and Hermann Bolman, who shouted to the employees, 'Come out of here, we want to talk to you. You had better come out and talk to us.'

"I consider the men employed in said foundry in danger of great bodily harm in going in and out of said foundry and also while inside from the striking molders."

F. N. SHANLEY.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant,
v.
The Iron Molders' Union, etc., defendants.
} Affidavit of Fred Sohl.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Fred Sohl, being duly sworn, says that he is 26 years of age, a resident of Mansfield, Ohio, and has been employed by the Newport Foundry & Machine Co. and its predecessors since November 2 and is employed by said company at the present time.

On Saturday, December 31, 1904, at about 6.30 p. m., affiant states he left the premises of the Newport Foundry & Machine Co. in company with six other persons who were employed by said foundry company, and when they got to the corner of Twelfth and Brighton Streets they met two men who followed them until they got to the corner of Eleventh and Brighton Streets; the said men who followed affiant and his companions were joined by several other men. Affiant further states: "While waiting for the car, these men came up to us, and one of them called G. L. Buck a '——— of a ——— of a scab.' Buck said nothing. Then one of them asked Buck what he was doing over here, and Buck said, 'Came over to see the boys.' One of them then turned to me and called me a ——— of a ——— of a scab, and struck at me with his fist. I have seen this man around the foundry several times. I then put my hand in my pocket, and the men went back toward the car barn, and one of them then said, 'If I could kill that ——— of a ——— I would be willing to die.'"

The car then coming along the affiant and his companions boarded it, and the strikers continued to hollow, "scabs" and "——— of ———" as long as the car was within hearing. The police did not offer to interfere or arrest anyone. The affiant states that he did not know these men by name, but that he has seen them every day around and about the foundry premises, going in and out of the said shanty across the street from said foundry, watching and looking about the said foundry observing those who went in and out.

The affiant states that he knows only one of these men by name, and that is George Zeis, who is a striking coremaker, member of Iron Molders' Union of North America, local union No. 432 in Cincinnati, Ohio.

Affiant states that from the conduct and threats of those men and others of the striking molders, he considers himself and other employees in great danger of bodily harm when out of the foundry premises or going out on the streets adjacent.

FRED SOHL.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainants,
v.
The Iron Molders' Union, etc., defendants.
} Affidavit of William Weber.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, William Weber, being duly sworn, says that he is 44 years of age, a resident of Newport, Campbell County, Ky., and is employed as foreman at the Newport Foundry & Machine Co., and has been employed by said company and its predecessors for a number of years last past, and has been in the said foundry since the beginning of strike, September 31 up to and including present day. Affiant further states that

various persons that have been formerly employed as molders by the Newport Foundry & Machine Co. and its predecessors have been loitering about and picketing said plant ever since said strike began. These men were formerly employed by said foundry company and 30 of them were union molders, members of the Iron Molders' Union of North America, and of Local Union No. 20 of Covington, Ky. Said strikers have had built a shanty on an unoccupied lot immediately across from the said foundry premises in which they congregate by day and night, more or less of them doing picket duty during different parts of the day and night. The affiant further states that the men were Paul Lindholz, Albert Sander, John Berkley, Wm. Tressler, James Moore, Ab. Pierce, Hermann Bolman, Emil Deihl, Wm. Moelk, and J. Beyer, all members of the Iron Molders' Union of North America, and Local Union No. 20.

Affiant knows that these men above mentioned have threatened and intercepted the nonunion men in going in and about the business of the foundry, trying to get the men away from their work, and threatening them with personal injury.

On November 8, at 5.15 p. m., affiant knows that rocks were thrown through the windows of the said foundry at the molders when they were pouring hot iron into the molds.

Affiant also states that he saw Henry Hennekamp, James Petri, Nicholas Attendorn, William Tressler, and Robert Fulner on roof of said foundry looking at said boarding house.

Affiant further states that he considers himself and the other employees of the said foundry in danger of bodily injury from the striking molders from the conduct and threats of said molders.

WILLIAM WEBER.

Sworn to and subscribed before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant,
v.
The Iron Molders' Union, etc., defendants.
} Affidavit of Joseph Palmer.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Joseph Palmer, being duly sworn, says that he is 41 years of age, living at Twelfth and Patterson Streets, Newport, Ky. He is engaged in hauling for the Newport Foundry & Machine Co. at present, and has been so employed by said company and its predecessors for a number of years last past, and is in and out and about of the said foundry every day, and he knows nearly all of the molders who were employed by the said Newport Foundry & Machine Co. and its predecessors, and who are at the present time out on strike, and have been for the last four months.

Affiant further states that he has seen Hermann Bolman, Albert Sander, Paul Lindholz, William Moelk, Henry Santel, Fred Bolman, Albert Deidrick, Emil Deihl, and Dan Veltman, all union molders on strike, loitering around and about the said foundry premises, and going in and out of the shanty built by the strikers on an unoccupied lot across from the said foundry almost every day during the present strike. He has been told by his drivers that they have been intercepted and threatened by various men on strike. The affiant further states that Hermann Bolman, a striking molder, came to his stables and asked him whether or not he was sending men to the said foundry for employment. Bolman said to affiant, "I understand that you are running around the country trying to get these Hoosiers to work there." He was very impudent in his language and manner.

Affiant further states: "Between 9.30 on December 3, 1904, my barn and stable were burned, containing 13 horses, 1 bus, 1 sleigh bus, 44 sets of harness, from $180 to $200 worth of feed, graneries, horse covers, blocks and tackles, blacksmith shop, carpenter shop, carpenters' tools, cutting boxes, and building was completely burned down, the loss amounting to about $3,000, under very suspicious circumstances, the fire department being very seriously interfered with by persons coming to the fire who seemed purposely to interfere with the fire department in its efforts to put out the fire."

JOSEPH PALMER.

Sworn to and subscribed before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* The Iron Molders' Union, etc., defendants. } Affidavit of William Eng.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, William Eng, being duly sworn, says that he is 43 years of age, a resident of Cincinnati, Ohio, and that he is employed at the Newport Foundry & Machine Co., situated in Newport, Ky., as a special policeman, and has been so employed by said company and its predecessors since November 1, 1904.

Affiant further states that about 10 p. m. November 1 about 15 men not recognized by affiant threw several volleys of rock at the windows of said Newport Foundry & Machine Co. boarding house. Also that on November 3 about 9 o'clock affiant and George Bass, who is foreman of the night gang at said foundry, were shot at while eating lunch in the said boarding house, one shot striking within 2 feet of affiant. On November 7 about 11 p. m. a crowd of men shot through the windows of the said boarding house. James Petri, an ex-union iron molder, was recognized by the affiant as the person carrying the shotgun and who shot through the windows of the boarding house. The same evening a number of shots were fired through the windows of the said foundry proper.

On November 8 at 5.15 p. m. while affiant was standing at the front door of the said foundry with Sam Hughie, another special policeman in the employ of the said Newport Foundry & Machine Co. and its predecessors, rocks were thrown through the windows of the said foundry at the nonunion molders when they were pouring hot iron into the molds.

Affiant further states that on November 10 the first dynamite bomb exploded in the foundry about 10 feet from the said boarding house.

On November 20 at 2.40 a. m. stones were thrown and shots were fired through the windows of the said foundry.

On November 20 affiant saw two men walk down from the front of the said foundry building to Lowell Street, in the city of Newport. He then went to the office, and an explosion took place when he was inside of the said building. Affiant then went to the Twelfth Street side of said foundry and saw Supt. Shanley, of the said Newport Foundry & Machine Co., leaning against the building. Said Supt. Shanley had one of the fuses in one hand and a knife in the other hand. Affiant also found the dynamite stick with the fuse cut and also found where the other stick of dynamite had exploded about 3 feet from where said Supt. Shanley was standing. Said explosion tore a hole in the gutter about 3 feet in diameter. Said Supt. Shanley's face was very much swollen by the explosion, and affiant assisted him to the office of said foundry. Affiant also sent Supt. Shanley home in charge of one of the men.

On the night of November 21 about 9.30 affiant states that he was inside of said foundry and heard two explosions. Affiant came to the rear of said boarding house, but could not see anybody, when there was another explosion at the west end of the foundry. The gate leading to the west side of said foundry was badly splintered, which explosion also raised the men in said boarding house out of their beds, three or four of whom were thrown out on the floor.

On December 11, about 5 or 10 minutes to 11 p. m., there was another explosion on the roof of the core room of said foundry, blowing out the windows and frames of the pattern shop.

Affiant further states that on November 25 the striking iron molders built a shanty on an unoccupied lot across from the said foundry, where they have ever since daily and nightly congregated. Among those who congregated there are James Moore, Paul Lindholz, Nicholas Attendorn, Albert Sander, John Berkley, Emil Deihl, and William Moelk, all union molders, members of the Iron Molders' Union of North America and Local Union No. 20; also James Petri, Red Limerick, and George Seimer, who are not former employees of the said Newport Foundry & Machine Co. or its predecessors. The above named men continually loitered around said foundry day and night. About 15 men lounge about said foundry all the time, four or five sleeping in said shanty regularly. Said shanty consists of but one room, with bunks and several chairs.

Affiant knows that men mentioned above have stopped persons coming to and from said foundry and tried to prevent said persons from getting employment in said foundry.

Affiant further states that on December 23 at 10.30 p. m. a dynamite bomb was exploded in the said foundry flask yard, which bomb, from its location, must have been thrown over the fence. No damage was done.

Affiant further stated that on November 19, about 1.30 a. m., he saw George Seimer and the Stoppel brothers, former employees of the said Newport Foundry & Machine Co., at the corner of Twelfth and Lowell Streets. Seimer, affiant further states, fired a shotgun twice into the air.

WM. ENG.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* The Iron Molders' Union, etc., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, John Racel, being duly sworn, says that he is employed by the Newport Foundry & Machine Co., situated in Newport, Ky., as a machine molder and has been so employed by said company and its predecessors for four months last past; that he is 20 years of age; and that on Saturday, December 21, 1904, about 8 o'clock p. m. he, in company with Jacob Schardt, Charles Schardt, Albert Holz, Frank Myers, and Jacob Keller, all of whom are employed in said foundry, when passing corner of Twelfth and Brighton Streets, Newport, Ky., was stopped by a crowd of men, among whom were George Knarr, a union molder, member of Iron Molders' Union of North America, and Local Union No. 20, Albert Sander, and William Tressler, the last two of whom are striking iron molders, formerly employed at the Newport Foundry & Machine Co., and one of the said men, William Tressler, said to Jacob Schardt "You scabby ——— of a ———," and took hold of him. Schardt replied "No; I am not scabbing; I am only working there at laboring." Said William Tressler said to affiant "Go on, you bum; what are you doing here?" in a threatening manner, when affiant saw some one of the said men strike Jacob Schardt on the side of the head, knocking his hat off. Affiant then went on with his companions, who were afterwards rejoined by Jacob Schardt.

Affiant further says that he has been threatened at various times by some of the said striking molders.

Affiant further states that Paul Lindholz, Albert Sander, John Berkley, William Moelk, and James Moore, all striking molders, members of the Iron Molders' Union of North America and Local Union No. 20, have been daily loitering around and about the plant of the Newport Foundry & Machine Co.

Affiant further states that he has seen Paul Lindholz and Albert Sander pay the striking iron molders $7 per week in paper money for four successive weeks.

JOHN RACEL.

Subscribed to and sworn to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant,
v.
Iron Molders' Union, etc., defendants.

STATE OF KENTUCKY. *County of Campbell, ss:*

Affiant, Martin Bauries, being duly sworn, says that he is 40 years of age, a resident of Cincinnati, Ohio, and that he is employed as cook at the boarding house erected to board the nonunion molders in the foundry of the Newport Foundry & Machine Co., and that on December 31, 1904, about 6 p. m., he left the said foundry with A. Summerveldt, Oscar Mooney, and W. E. Lafferty, all molders employed at said foundry. On arriving at the northwest corner of Eleventh and Brighton Streets, waiting for a car, a crowd began to gather around. A young man whom the affiant believes is a striking molder approached him and said, "Where are you working?" Affiant answered, "Working at the foundry." Said young man then said, "Don't you know that you are taking the bread and butter out of my mouth and the rest of these men?" Affiant answered, "I don't know anything about that." Another party who was standing by said, "That is the cook."

The first party then spoke again and said, "It does not make a damn bit of difference if it is the cook or not. He is over there cooking for those dirty ——— of ——— and is helping them along in their work." While these remarks were being made a crowd of men came out of a saloon and began to push and crowd the affiant and his three companions. Affiant remarked to the crowd, "Look here, we don't want any trouble. We ain't looking for trouble," and called to Supt. Shanley, of the Newport Foundry & Machine Co., who was on the other corner, "Shanley, come on over here." With that the first speaker said, "The hell with Shanley; give it to him," and struck affiant in the face, whereupon he attempted to run away, and was followed by four men, two of whom held him and the other two struck him, kicked him, beat him on the head with a blunt instrument, affiant meanwhile calling for help as loudly as possible, finally getting away from the four men, and running toward the car barn at the southwest corner of Eleventh and Brighton Streets, where a police officer appeared coming out of the barn. Affiant was covered with blood, head and face cut and bruised, when he walked into the barn, meeting Supt. Shanley with the three nonunion molders and another policeman. Affiant pointed to the man who beat him, saying to the officer, "There is one of the men who beat me, arrest him." The officer stood and looked at the man, and the man retorted, "Yes, I am the man, ——— ——— you, come and arrest me." The officer never made a move to arrest him or said anything to him, whereupon the party walked away.

Affiant with one of the officers and Supt. Shanley returned to the foundry where a physician was called to dress the wounds of said affiant. About two hours after said affiant, with his wounds dressed and head bandaged, boarded another car at the southwest corner of Eleventh and Brighton Streets, whereupon seven men boarded the same car, and about two minutes after these same men, who were unknown to affiant, seated themselves near him and one said, "You are a hell of a fine aspect." Affiant thereupon moved from the seat that he occupied and went to the rear. Loud remarks were made and the car stopped, discharging all passengers, leaving the affiant and these seven men on the car, three of whom began to push and shove the affiant, one remarking, "Get him out of here, he's a scab," and reiterating to the conductor, "Put that fellow off, he's a scab." Another remarked to the motorman, "He's a scab." Affiant replied, "No; I am the cook. I've been beaten up once before. Leave me alone." Whereupon three men caught him and attempted to pull him from the car. Affiant then defended himself in a manner that all seven men jumped from the car, affiant also leaving the car and going to the nearest drug store, telephoned to the police station for assistance. Upon the arrival of five policemen said affiant was arrested and placed in jail.

Affiant believes that from the conduct and threats of said men he was in danger of losing his life or suffering great bodily harm; and said affiant still believes that from the conduct of the striking molders, members of the Iron Molders' Union of North America and Local Union No. 20, around and about said foundry premises, he and other employees of said foundry are in great danger of bodily harm, and that their business and employment would be interfered with.

Since the employment of said affiant in the said foundry the said striking molders have erected a shanty adjacent to the said foundry premises in which they daily and nightly congregate, watching all persons going into and out thereof or about said foundry premises.

Affiant further states that he hired an assistant on November 26, 1904, Karl Hardel by name, who was threatened and finally left the employment of the said affiant on account of the fear of bodily harm made against him in the shanty before mentioned.

Affiant further states that the nonunion employees who are boarding in the boarding house of which said affiant has charge, are afraid to leave same, requesting protection whenever they leave the plant of said company. Affiant further states that he knows they are in constant danger from the said striking molders in or out of the foundry premises.

MARTIN BAURIES.

Subscribed and sworn to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* The Iron Molders' Union, etc., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Albert Holz, being duly sworn, says that he is 21 years of age, a resident of Campbell County, State of Kentucky, and that he is employed at the Newport Foundry & Machine Co., situated in Newport, Ky., as a laborer, and has been so employed by said company and its predecessors five months last past, and that on December 31, 1904, about 8 o'clock p. m., he, in company with Frank Myers, John Racel, Charles Schardt, Jacob Schardt, all employees of the Newport Foundry & Machine Co, and George Hoffman, not an employee of said company, left their homes, and when passing Twelfth and Brighton Streets, Newport, Ky., within about 200 feet from said foundry, they were stopped by a crowd, among whom were George Amrein, William Tressler, Albert Sander, striking iron molders, members of the Iron Molders' Union of North America, Local No. 20. One of the crowd said to Jacob Schardt, "Hello, Jake," and another said, "Come here you scabby ——— of a ———, I want to talk to you." Said Jacob Schardt did not listen, when William Tressler caught him by the arm and forcibly detained him and questioned him about working for the said Newport Foundry & Machine Co., when affiant saw one of the crowd strike said Jacob Schardt on the side of the head, and they were then told to go up the street, and called them all vile names and threatened them.

Affiant further states that he is in fear of his life and danger of his person by working at said foundry.

Affiant further states that he has been followed by Louis Feldman and other persons around the city at various times, and also that said Louis Feldman is a striking molder, member of the Iron Molders' Union of North America, Local No. 20.

Affiant further states that a frame shanty has been erected near said foundry, where the striking iron molders who are members of said Iron Molders' Union of North America and Local No. 20 congregate by day and night, and also that Paul Lindholz, John Berkley, Albert Sander, and other strikers not known to him by name, loiter around the said foundry by day and night.

Said shanty is built across the street from said foundry on an unoccupied lot and where, from said location, persons inside the shanty have a full view of all persons going in and out and about the said foundry premises.

ALBERT HOLZ.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* the Iron Molders' Union, etc., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Jacob Keller, being duly sworn, says that he is 18 years of age, a resident of Campbell, of Campbell County, Ky., and that he is employed as a molder apprentice at the Newport Foundry & Machine Co. in Newport, Ky., and has been employed by said company and its predecessors about six weeks last past, and that on December 14, 1904, about 6 p. m., going home from work with his brother, Edward, who is also employed at the Newport Foundry & Machine Co., walking on Ninth Street near Isabella, two men suddenly emerged from a dark corner and struck him on the head with a club, knocking him insensible and cutting a gash in his head about 3 inches long.

Affiant further states that his brother, Edward, was also struck with a club by one of these two men.

Affiant further states that said men who assaulted him were strangers to him and further says that he is satisfied that the said parties who assaulted him were either strikers, members of the Iron Molders' Union of North America and Local Union No. 20, or their sympathizers, as he has no known enemies.

Affiant further states that he has reason to fear and does fear that said striking molders will do him bodily harm, which has been indicated by their threats and conduct to others who are now employed at the Newport Foundry & Machine Co.

JACOB KELLER.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* the Iron Molders' Union, etc., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Edward Keller, being duly sworn, says that he is 26 years of age, a resident of Newport, Ky., and that he is employed as a molder at the Newport Foundry & Machine Co., of Newport, Ky., and has been so employed by said company and its predecessors for about seven months, and that on December 14, 1904, about 6 p. m., going home from work with his brother, Jacob, walking on Ninth Street near Isabella, two men suddenly emerged from an alleyway and struck him on the head with a club, staggering him, and that the other man hit his brother, Jacob, with a club, knocking him insensible, whereupon the men who assaulted said affiant and his brother, Jacob, ran away. The affiant says that the men were unknown to him, and further states that he is satisfied that the parties who assaulted him are striking molders, members of the Iron Molders' Union of North America, Local Union No. 20, or their sympathizers, as he has no enemies that he knows of.

Affiant further states that he has been threatened by the strikers several times, once by William Moelk, a striking molder, also by James Moore at another time.

Affiant further states that Paul Lindholz, Al Sander, William Moelk, James Moore, Ben Berning, all striking molders, members of the Iron Molders' Union of North America, Local Union No. 20, and James Petri and Red Limerick, sympathizers, loiter and lounge around the said foundry premises.

Affiant further states that he knows the said molders have erected a shanty within 100 feet of the said foundry where said molders congregate in crowds, and watch the customers and help going in and out of the said foundry, and any other persons who desire to do business with the said foundry company.

Affiant further states that he has reason to fear and does fear the said striking molders will do him bodily harm, which has been indicated by their conduct and threats to him, and to others who are now in or have been employed in and about said foundry.

Affiant while a resident of Newport has removed temporarily to Cincinnati, Ohio.

EDWARD KELLER.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMONT,
Notary Public in and for Campbell County, Ky.

United States Circuit Court, Eastern District of Kentucky.

The Newport Foundry & Machine Co., a corporation, complainant, *v.* The Iron Molders' Union, etc., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Jacob Schardt, being duly sworn, says that he is employed by the Newport Foundry & Machine Co., situated in Newport, Campbell County, Ky., and has been so employed by said company and its predecessors for eight years last past, and on Saturday, December 31, 1904, that he, in company with several other employees of said company, to wit, Frank Myers, John Racel, Albert Holz, Charles Schardt, and George Hoffman, who is not employed at said foundry, left their homes at about 8 o'clock p. m., and when passing the corner of Twelfth and Brighton Streets, within about 200 feet of said foundry, they were stopped by a crowd of about 15 men, when one of the crowd of men said, "There goes the scab," whereupon affiant stopped, and one William Tressler, a striking molder, member of the Iron Molders' Union of North America, Local Union No. 20, laid his hand upon affiant and asked said affiant if he was molding at said foundry, whereupon said affiant replied, "No; I am laboring," whereupon some one struck affiant in the back of the head, when affiant ran away. Those present whom the affiant recognized were William Tressler, Albert Sanders, striking molders, members of the Iron Molders' Union of North America, and Local Union No. 20, and George Knarr, who is a union molder, having been previously employed by the said foundry. The affiant's companions went on away from said crowd and were subsequently rejoined by said affiant. Affiant said nothing when he was struck because he was afraid of the said men.

Affiant knows that said Albert Sander, Paul Lindholz, John Berkley, William Tressler, James Moore, William Moelk, and Emil Deihl, all striking molders, members of the Iron Molders' Union of North America and Local Union No 20. formerly employed at said Newport Foundry & Machine Co., are daily loitering around the premises of said foundry by day and night, and one James Petri, an ex-molder, has also been loitering around said plant by day and night.

Affiant has seen Paul Lindholz pay the striking molders, those picketing the premises, in paper money in Tippenhauer's lot, situated across the street from said foundry, about the —— day November, 1904, but what sums of money affiant can not say.

Said Paul Lindholz, Albert Sander, James Moore, James Pertim, John Berkley, William Tressler, William Moelk, and Emil Deihl are all residents of Newport, Campbell County, Ky.

JAKE SCHARDT.

Sworn to and subscribed to before me this 5th day of January, 1905.

[SEAL.] HENRY C. DUMON ,
Notary Public in and for Campbell County, Ky.

[Filed Jan. 26, 1905.]

THE UNITED STATES OF AMERICA,
Eastern District of Kentucky, ss:

WRIT OF INJUNCTION.

The President of the United States of America. To Stephen G. Sharp, United States marshal within and for the eastern district of Kentucky, greeting:

Whereas the Newport Foundry & Machine Co., a corporation organized under the laws of the State of New Jersey, and citizen of the State of New Jersey, has filed on the chancery side of the Circuit Court of the United States for the Eastern District of Kentucky, a bill against the Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders' Union, No. 20, Henry Hinnekamp, business agent; Iron Molders' Union, No. 432, John Prindle, president; Henry Hinnekamp, business agent; and William Oberjohn, secretary; James Petri, Paul Lindholz, Albert Sander, James Moore, Michael Attendorn, and "Red" Limerick, and has obtained an allowance for an injunction, as prayed for in said bill.

Now therefore, we, having regard to the matters in said bill contained, do hereby command and strictly enjoin you, the said the Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders' Union, No. 20, Henry Kinnekamp, business agent; Iron Molders' Union, No. 432, John Prindle, president; Henry Hinnekamp, business agent, and William Oberjohn, secretary; James Peters, Paul Lindholz, Albert Sander, James Moore, Michael Attendorn, and "Red" Limerick; and each of them, their confederates, servants or agents, and any and all persons aiding or abetting them or any of them, now or hereafter to absolutely desist and refrain from hindering, obstructing or stopping any of the business of the Newport Foundry & Machine Co., in the city of Newport, county of Campbell, Ky., or elsewhere.

Also from entering upon the grounds or places where the employees of the Newport Foundry & Machine Co., are at work for the purpose of and in such a manner as to interfere with, hinder, or obstruct the business of the Newport Foundry & Machine Co. in any manner whatsoever.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, force, or violence, any of the employees of the Newport Foundry & Machine Co. to refuse or fail to do their work or discharge their duties as such employees.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, force, or violence, any of the employees of the Newport Foundry & Machine Co. to leave its service.

Also from preventing or attempting to prevent any person or persons by threats, intimidation, force, or violence, from freely entering into the service or employment or continuing in the service or employment of the Newport Foundry & Machine Co.

Also from compelling or inducing or attempting to compel or induce by threats, intimidation, force, or violence, any person or persons whomsoever from assisting and aiding the Newport Foundry & Machine Co. in the conduct of its business and from doing any act whatever in furtherance of any conspiracy or combination to restrain or obstruct the operation of the business of the Newport Foundry & Machine Co.

Also from ordering, aiding, assisting, or abetting in any manner whatever any person or persons to commit any or either of the acts aforesaid.

Also from congregating or being upon or about the sidewalks, streets, alleys, or approaches, adjoining or adjacent, to where the said employees of said Newport Foundry & Machine Co. may be for the purpose of and in such manner as to intimidate said employees or coerce said employees or any of them, from rendering their service or discharging their duties to the Newport Foundry & Machine Co.

Also from inducing or coercing by threats, force, or violence any of the employees of the Newport Foundry & Machine Co.

Also from in any manner interfering with the Newport Foundry & Machine Co. in carrying on its business in the usual and ordinary way.

Also from acting in such a manner as to intimidate or in any manner interfering with or molesting any person or persons who may be employed by or who may be seeking employment with the Newport Foundry & Machine Co. in the operation of its business.

Also either singly or in combination with others from collecting in and about the approaches to the place of business of the Newport Foundry & Machine Co. for the purpose of picketing or patrolling or guarding the streets, avenues, gates, and approaches to the place of business of the Newport Foundry & Machine Co. in such a manner as to interfere with the business of the Newport Foundry & Machine Co. or its employees, or in such a manner as to threaten, coerce, or frighten any of the employees of the Newport Foundry & Machine Co., or cause its employees to leave and abandon their employment with the Newport Foundry & Machine Co.

Also from preventing any person or persons from seeking employment with the Newport Foundry & Machine Co.

Also from interfering with the employees of the Newport Foundry & Machine Co. in going to and from their daily work at the Newport Foundry & Machine Co.'s place of business.

And also from going either singly or collectively to the homes of the employees of the Newport Foundry & Machine Co., or any or either of them, for the purpose of and in such a manner as to intimidate or coerce any or all of said employees to leave the employment and service of the Newport Foundry & Machine Co., or prevent any person or persons from entering its employment or service.

And also from intimidating and threatening in any manner the wives and families of said employees at their homes or elsewhere.

And it is further ordered that this order shall be in force and binding upon each of the defendants, and all of them named in the bill, from and after service upon them of said order by delivering to them a copy, or by reading the same to them, and shall be binding upon defendants whose names are alleged to be unknown, from and after publication thereof by posting or printing, and shall be binding upon all defendants, and all other persons whatsoever, from and after the time they severally have knowledge of the allowance of this order.

Which commands and injunction you are respectively required to observe and obey until our said circuit court shall make further order in the premises.

Hereof fail not, under the penalty of the law thence ensuing. Upon defendant's motion to set aside the foregoing order, and the plaintiffs' motion to perpetuate the same, both this day filed, said motions are set for hearing on January 24, at 9.30 o'clock a. m., and this injunction will be in force until said hearing.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States, this 10th day of January, A. D. 1905, and in the one hundred and twenty-ninth year of the independence of the United States of America.

JOS. C. FINNELL,
Clerk United States Circuit Court, Eastern District of Kentucky,
By J. W. MENZIES, *Deputy.*

Indorsement: Received January 12, 1905. Executed January 12, 1905, by delivering a true copy to James Petre, on January 13 to Paul Lindholz, and by leaving a true copy at the usual residence of "Red" Limerick; also on Albert Sander by leav- a true copy at his residence, Newport, Ky., and Michael Atterdorn in the same manner January 15.

S. G. SHARP, *United States Marshal.*
By EMMETT ORR.

United States Circuit Court, Eastern District of Kentucky, at Covington, Ky.
(Filed February 9, 1905.)

JUDGMENT.

The Newport Foundry & Machine Co. *v.* The Iron Molders' Union of North America et al.

This day came the complainant, by James C. Wright, its attorney, and by letter addressed to the court, which is now filed and made part of the record, announces that it has sold and conveyed all of its property of every kind, real and personal, wherever situated, to the Newport Foundry Co., and for that reason has no further interest in this proceeding.

Upon the court's motion it is now ordered that the bill of complaint herein be, and the same is, dismissed, each party paying its own costs.

A. M. J. COCHRAN, *Judge.*

Circuit Court of the United States, Eastern District of Kentucky. (Filed February 23, 1905.)

The Newport Foundry & Machine Co., complainants. *v.* The Iron Molders' Union of North America et al., defendants. } Affidavit of James C. Wright.

The affiant, James C. Wright, states that the complainant in this cause did offer to have an entry made dismissing the case, upon its motion, but that defendants refused to permit such entry unless complainants would also in said order state that the charges by it in its bill herein had been made upon misinformation and that they were untrue so far as said unions were concerned; that complainant refused to make any withdrawal of any of said charges, insisting upon their truth; that it was then proposed by the defendants that the contemplated sale of the property should be completed and that an entry should be drawn that neither party would move to dismiss the case or make any motion to prevent a hearing upon the merits; that the complainant objected to this entry for the reason then given that the sale of the property would deprive it of all financial interest in the matter in controversy in the suit and that it would then be impossible for it to successfully prosecute the action.

Affiant says that the complainant then refused to have such entry made and that for a time the contemplated sale of the property was abandoned; that the prospective purchasers seemed very desirous of concluding the sale and after hearing the matter of said entry fully discussed endeavored to induce complainant to sign said entry, giving as reason therefor that they felt certain that after a sale of the property was made the court would not bear the cause and that complainant would not be in any way injured by the entry. Affiant says that complainant then reconsidered the matter, and this affiant, as attorney for complainant, then said to defendants and their counsel, Martin M. Durrett, that he could not consent to the signing of said entry by complainant unless he was permitted to inform the Hon. A. M. J. Cochran, judge of this court, fully of all the facts in reference to said sale, said information to be given him by letter; that counsel for defendants, Martin M. Durrett, objected to this communication, stating that he had already informed the court by telephone, but affiant insisted that it was his duty as attorney for complainant to inform the court fully of all the facts. It was then agreed by all the parties that affiant should send said letter, and, in pursuance of said agreement and strictly in accordance therewith, he wrote and sent the letter which has been filed in this case; that said letter is not in violation either of the spirit or the letter of said agreement in any particular whatever.

Affiant says that he kept a carbon copy of said letter, and immediately after sending the original exhibited said copy to some of the defendants and purchasers and that they then agreed that it was written exactly in conformance to the arrangement and understanding before set out.

JAMES C. WRIGHT.

Subscribed and sworn to before me by James C. Wright this 21st day of February, 1905.

[SEAL.] BENJ. A. WRIGHT,
Notary Public, Campbell County, Ky.

My commission expires January 20, 1908.

AFFIDAVIT IN SUPPORT OF MOTION TO MODIFY ORDER OF FEBRUARY 9, 1905.

In the Circuit Court of the United States for the Eastern District of Kentucky. (Filed February 23, 1905.)

The Newport Foundry & Machine Co., etc., complainants, *v.* The Iron Molders' Union of North America et al., defendants.

The affiant, Martin M. Durrett, states that he is the attorney for defendants herein; that the sale set out in the letter of James C. Wright, attorney for complainants, mentioned in the order of dismissal herein of February 9, 1905, was made to a part of these defendants; that complainants offered as one of the conditions of said sale that it would move this court to dismiss this cause at complainants costs; and the purchaser at said sale would not consent to the dismissal of the cause unless complainants withdrew all allegations in the complaint hurtful to defendants; this complainants declined to do.

It was then agreed by the parties to said sale that neither side would seek a dismissal of this cause but would endeavor to bring same to a trial on the day set out,

to wit, February 9, 1905, and this was done in order that defendants might meet said hurtful allegations and have an opportunity to prove their malicious falsity and have this cause dismissed on its merits and at complainants costs; but affiant says, that in violation of the spirit of said agreement, complainants attorney addressed the aforesaid letter to this court, which had the same effect as a motion on the part of complainants to dismiss this cause, and said cause was dismissed accordingly.

The agreement above mentioned is filed herewith as part hereof.

MARTIN M. DURRETT.

Subscribed and sworn to before me by Martin M. Durrett, this 17th day of February, 1905.

FRANK MCVEY, *Notary Public.*

United States Circuit Court, District of Kentucky, at Covington.

The Newport Foundry & Machine Co. *v.* The Iron Molders' Union of North America, etc.

It is agreed by the parties in this case that this case shall come to trial upon February 9, 1905, and that neither party will move to dismiss its case or make any motion that will prevent a hearing upon the merits.

MARTIN M. DURRETT,
Attorney for the Defendants.

JAMES C. WRIGHT,
Attorney for the Complainants.

THE NEWPORT FOUNDRY & MACHINE CO.,
By HENRY J. WEBER, *President.*

NEWPORT, KY., *January 28, 1905.*

THE UNITED STATES OF AMERICA, *Eastern District of Kentucky, sct:*

I, J. W. Menzies, clerk of the District Court of the United States for the Eastern District of Kentucky, do hereby certify that the foregoing are true and correct copies of the bill of complaint; affidavit of Henry Weber, Fred Sohl, James O'Brien, John P. Magel, Theodore Bush, George Kohnen, James Fitzsimmons, G. Schneider, W. J. Sutton, Fred Vetter, Daniel Riedel, H. H. Deputy, and August Helmbold; order of injunction; affidavits of F. N. Shanley, Fred Sohol, William Weber, Joseph Plamer, William Eng, John Racel, Martin Bauries, Albert Holz, Jacob Kellar, Edward Kellar, and Jacob Schardt; writ of injunction with return; judgment; affidavit of James C. Wright; and affidavit in support of motion to modify order of dismissal as the same appear from the records and files of this office in the matter set out in the caption hereto.

Witness my hand as clerk and the seal of said court, at Covington, this 1st day of July, A. D. 1912, and of our independence the one hundred and thirty-sixth year.

J. W. MENZIES, *Clerk,*
By S. W. STACEY.

BILL OF COMPLAINT.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division. In equity.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, complainant, *v.* The Iron Molders Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders Union No. 4, Daniel Twohig, president, Henry Hinnenkamp, business agent; Iron Molders Union No. 20, Henry Hinnenkamp, business agent; Iron Molders Union No. 432, John Prindle, president, Henry Hinnenkamp, business agent, and William Oberjohn, secretary. In equity.

To the judges of the Circuit Court of the United States for the Southern District of Ohio, Western Division:

The complainant, The Newport Iron & Brass Foundry Co., a corporation duly organized under the laws of the State of Kentucky, and a resident of said State, brings this, its bill, against the Iron Molders Union of North America, Joseph F. Valentine,

president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders Union No. 4, Daniel Twohig, president, Henry Hinnenkamp, business agent and secretary; Iron Molders Union No. 432, John Prindle, president, William Oberjohn, secretary, and Henry Hinnenkamp, business agent, citizens of the State of Ohio, in Hamilton County of said State, and Iron Molders Union No. 20, citizens of Kentucky, in Kenton County of said State, but having its principal place of business and acting through its business agent, Henry Hinnenkamp, in Cincinnati, Hamilton County, Ohio.

And thereupon your orator complains and says:

First. That the matters in dispute in the above-entitled suit exceeds, exclusive of interests or costs, the sum of $2,000. That it is a corporation duly organized and existing under and in virtue of the laws of the State of Kentucky as aforesaid, for the purpose, among others, of manufacturing and selling gray iron castings; that it is now and for a number of years last past has been engaged in said business; that it has maintained and now has a large foundry in the city of Newport, County of Campbell, State of Kentucky, and until the happening of the grievances hereinafter stated has manufactured at said foundry and sold and shipped therefrom large quantities of said castings; that it has a large capital invested in said business; and that the successful operation of said business requires it to employ and it has been accustomed to employ in said foundry about 100 men.

Your orator further states that the men so employed by it belonged to the trades-unions, which are distinct and organized associations in Cincinnati and vicinity, defendants hereto, each having regular executive officers and bearing the following names, viz, the Iron Molders Union of North America, being the national order of iron molders, Iron Molders Union No. 4, Iron Molders Union No. 20, and Iron Molders Union No. 432.

That these lodges are secret organizations and conduct all their business affairs in privacy and secrecy, and each has complete control over its members respectively, and complainant is unable to obtain the names of the executive officers of said lodges or of their members respectively for that reason, except the following: The Iron Molders Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders Union No. 4, Daniel Twohig, president, Henry Hinnenkamp, secretary and business agent; Iron Molders Union No. 20, Henry Hinnenkamp, business agent, and Iron Molders Union No. 432, John Prindle, president, William Oberjohn, secretary, and Henry Hinnenkamp, business agent; and that they are all acting through said defendants, Henry Hinnenkamp and Joseph F. Valentine, in maintaining, directing, and conducting the present strike.

Second. Your orator complains that prior to September 3, 1904, the said defendant unions, through their said several executive officers and their members, entered into an unlawful conspiracy and agreement among themselves and divers other persons now unknown to complainant (who it prays may be made defendants hereto on discovery of their names), to form and carry into execution a strike in 11 of the manufacturing concerns employing molders in Cincinnati and vicinity, including the foundry of this complainant; that the object of such strike was to break up the employment, whether the same was existing by contract or otherwise, of all molders engaged in complainant's foundry, and through such means or any other means that might be found necessary force them to withdraw and desist from work in complainant's said foundry, and to prevent others, not members of such unions, from accepting employment therein, and to stop and destroy complainant's business and to deprive it of its employees and drive them away, and to prevent others not theretofore so employed and not members of any of said unions from filling the places so made vacant; also to persist in this unlawful course and conspiracy until and unless certain exactions made by said defendant unions upon complainant were complied with, and that the exactions so made were in substance and effect as follows:

First. That on and after August 1, 1904, the minimum rate of wages to be paid to floor molders shall be $3.20 per day, and to bench molders $3 per day, and to coremakers $2.50 per day of 10 hours.

Second. That all overtime, except in cases of accident or causes beyond control not consuming more than 30 minutes' time, shall be paid for at the rate of time and one-half time, and double time for Sundays and legal holidays, to wit, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

Third. All local conditions for molders to remain in force as heretofore.

Your orator further states that the execution of said conspiracy was begun on the 6th day of September, 1904, through and in pursuance of an order made and issued by direction of the defendant lodges acting through their executive officers and said defendants, Henry Hinnenkamp and Joseph F. Valentine; that in obedience to said order

nearly all of the employees of complainant quit work on that day and refused to continue in the employ of complainant, and thereupon and thereafter through various means said defendants and said conspirators prevented complainant from filling the vacancies so made, and so succeeded in practically stopping the complainant's business; that among the means resorted to by said conspirators was and is that of selecting and detailing large numbers of persons called pickets to constantly watch and beset the approaches to complainant's foundry, and to congregate at and near said foundry in large numbers to intimidate and coerce by threats, abuse, violence, and other means, persons willing and attenpting to approach complainant's foundry for the purpose of entering into the employment and work of complainant, and likewise to intimidate and coerce by like measures such of said persons as have succeeded or shall succeed in reaching complainant's foundry and entering upon work there in the place of the strikers when such persons are goung to or leaving their said work; such threats, abuse, and violence consisting in substance and effect of statements made by said pickets to the persons aforesaid that such pickets and the union members generally will succeed in said strike and will return to their old employment and will not then suffer said persons to work in their presence in this city or vicinity or in the presence of any other union men in any other city, declaring they will take and distribute their photographs for the purpose of identification and ostracism and exclusion from work at any place or time; consisting also of epithets used against the persons so seeking and desirous of entering into and continuing in such employment, such as "traitors" and "scabs," at the same time laying violent hold upon their persons and pushing and jerking them amid jeers and laughter which terrorize them and are calculated to and do humilate and disgrace them among the classes they are accustomed to associate and work with; consisting also in some instances of actual assaults upon such persons; and consisting also of visits to their homes where threats of assaults and batteries upon the persons so seeking or continuing employment with complainant are made to their wives, mothers, sisters, or other helpless and dependent members of their families unless the latter will promise to use and employ their influence to prevent such persons from working or offering to work and from keeping their contracts to work against the fiat of the unions or the wishes of the pickets and strikers, and said defendants so frighten them into making entreaties and otherwise exerting their influence to prevent such persons from entering or continuing in such employment; that by these and similar acts said pickets have taken and kept away from complainant all the men it has been able to employ, and have materially and irreparably impaired and injured its said business, and but for such acts the places of said employees could and would easily be filled by persons willing and anxious to work.

Your orator further states that the pickets so detailed for and placed and kept at complainant's foundry are not all kept there continuously, but many of them are changed from day to day from one foundry to another, though all were engaged in a common purpose to accomplish a common end, to wit, to prevent persons willing to work from entering or continuing in the employment of complainant; that another object as well as the result of these changes of pickets from place to place is to prevent complainant from obtaining all the names of the pickets and so from enforcing complainant's lawful rights in the premises; that the changes made are accomplished by sending former employees of said complainant to some other foundry, and former employees of that foundry to complainant's foundry, and so on through the entire list of manufacturing concerns affected by the conspiracy and strike aforesaid; that the pickets so detailed and placed were at the time the strike was ordered and commenced as aforesaid, mostly taken from their respective shops, including the shop or foundry of this complainant, and placed around the same to do and perform the acts hereinbefore recited, but the succession of changes was soon thereafter commenced and has ever since been carried out in the manner aforesaid.

Your orator further states that the congregations of persons commonly called pickets, to patrol and control the approaches to and surroundings of complainant's foundry, and the loitering and boisterous conduct of such persons, are calculated to and do attract other unemployed and lawless characters in such numbers as to menace and intimidate other persons who are willing to go to and from said foundry as ordinary machinists and laborers do when engaged in work therein; that the collections of some of the same persons and others employed and engaged in said strike who intercept persons who are so willing to work at complainant's foundry either in going to the same or away from the same, from or to their homes, and who congregate at the homes of such persons, and there make the threats and do the acts hereinbefore recited, are likewise calculated to and do attract other idle persons who unite and join in the performance of the acts mentioned; that such conduct and all these acts irreparably affect and injure complainant's property and business aforesaid, and prevent it from carrying on said business or pursuing its lawful rights and privileges in

connection therewith; and that the said conduct and several acts hereinbefore complained of, done and performed on the part of the defendants and those associated with them, those names are not given for reasons hereinbefore stated, have continued ever since September 6, 1904, and will continue unless the relief prayed for herein is granted, and that said acts cause not only irreparable damage to the property, rights, and business of the complainant, but they constitute and are a continuing nuisance to the same; that the most if not all of the defendants are persons of little or no means, and would be unable to respond in an action of damage brought against them by complainant for and on account of the acts and things herein alleged, and for which acts and things the complainant is without remedy, save and except in a court of equity.

Your orator further states that the persons other than those named as defendant herein, and who have been congregating and loitering in front of and in the neighborhood of complainant's foundry, and have been thereby aiding and abetting said defendants in the unlawful acts by them done, as hereinbefore stated, are too numerous for complainant to make them all parties to this bill, even if complainant could obtain their names, which it can not do, but complainant avers and shows that the members of the said several defendant lodges are in combination, and are associated together in an unlawful enterprise, and that complainant should not be obliged to make all said members of said interference with the business of said complainant, parties to this bill, but that complainant should be permitted to proceed against the representatives of said defendant lodges, to wit, their executive officers, together with said defendants Henry Hinnenkamp and Joseph F. Valentine, and such other members of said lodges whose names may from time to time be ascertained and who are guilty of the unlawful practices herein alleged.

To the end that your orator may obtain the relief to which it is justly entitled in the premises, it now prays the court to grant it due process by subpœnas directed to said defendants hereinbefore named, requiring and commanding each of them to appear herein and answer, but not under oath, the same being expressly waived, the several allegations in this, your orator's bill, contained.

And your orator further prays the court to now grant it a writ of injunction, until the further order and decree of this court, in the premises, restraining and enjoining the said defendants, and each of them, their agents, servants, employees and members and any and all other persons that may be associated with them in committing the acts and grievances complained of in said bill, from in any manner interfering with, hindering, obstructing or stopping any of the business of the complainant or its agents, servants, or employees in the operation of its said foundry, or in bringing materials to the same or taking manufactured castings, goods or products away from the same to any place desired; and from entering upon the grounds or premises of complainant for the purpose of interfering with, hindering or obstructing or stopping its business in any form or manner; and from compelling or inducing or attempting to compel or induce by threats, intimidation, coercion, force, or violence any of the employees of complainant, or persons wishing or willing to become such, to refuse or fail to perform their duties as such employees, whether under contract or otherwise, or to refuse or fail to become such employees; and from compelling or inducing, or attempting to compel or induce by threats, intimidation, coercion, force, fraud, or violence, any of the employees of complainant to leave the service or employment of complainant; and from doing any act whatever in furtherance of any conspiracy, combination, agreement, or design to obstruct or impede complainant or any of its officers or employees in the free and unhindered control of its business; and from ordering, directing, aiding, assisting, or abetting in any manner whatever any person or persons to commit any of the acts aforesaid; and from congregating at or near the premises of complainant in Newport, Ky., for the purpose of intimidating or coercing or in any manner impeding its employees, or other persons willing to become such, or coercing them or preventing them from rendering their service to complainant, and from inducing or coercing, by threats or fraud, said employees or other persons willing to become such to leave or abstain from entering the employment of complainant and from interfering by threat or any other act of intimidation, with the complainant in carrying on its said business in its usual and ordinary way; and from in any way interfering with and molesting any person or persons who may be employed or seeking employment by complainant in the operation of its foundry or business; and from collecting in and about the approaches to complainant's foundry for the purpose of picketing, besetting, patrolling, or guarding the streets, avenues, doors, gates, and approaches to the property of complainant for the purpose of intimidating, threatening or coercing or in any manner impeding any of the employees of complainant or any person seeking the employment of complainant, and from inferfering with the employees of said complainant or with other persons in going to and from the foundry or property of complainant

in the prosecution of their daily work or other business to be there done, and from going either singly or collectively to the homes, boarding houses, or habitation of complainant's employees or of any person wishing to become such, for the purpose of intimidating or coercing any or all of them to leave the employment of complainant or from entering its employment and as well from intimidating or threatening in any manner the relatives, wives, and families or any of the members thereof of said employees of complainant, at their said homes or elsewhere.

And your orator further prays that upon final hearing hereof the foregoing injunction may be made perpetual, and that such other and further relief may be granted it in the premises as shall seem to the court to be just and equitable.

CHAS. F. WILLIAMS,
Attorney for Complainant.

STATE OF OHIO, *Hamilton County, ss:*

Henry J. Weber, being first duly sworn, says that he is secretary-treasurer of the Newport Iron & Brass Foundry Co., a corporation, complainant in the above bill of complaint, and that the facts stated in said bill of complaint, when stated on information and belief, he verily believes to be true; and that the facts otherwise stated therein are true.

HENRY J. WEBER.

Subscribed and sworn to before me this 22d day of September, 1904.

[SEAL.] FRANK P. GARRISON,
Notary Public, Hamilton County, Ohio.

WRIT OF INJUNCTION.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, complainant, *v.* The Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders' Union No. 4, Daniel Twohig, president; Henry Hinnenkamp, business agent; Iron Molders' Union No. 20, Henry Hinnenkamp, business agent; Iron Molders' Union No. 432, John Prindle, president; Henry Hinnenkamp, business agent, and William Oberjohn, secretary, defendants. In equity.

Now, on this day comes the complainant, by its counsel, and having filed its bill of complaint, moved thereon, and upon the affidavits of Henry J. Weber, Fred Wagner, Edward Kellar, James Shanks, Pole Harrison, and Frank York, filed in this case, for an injunction against the defendants, restraining them, and each of them, as prayed for in said bill of complaint.

It is therefore ordered and decreed that upon plaintiff giving bond in the sum of $1,000, the said defendants, The Iron Molders' Union of North America, Joseph F. Valentine, president; E. J. Denney, secretary; Victor Kleiber, assistant secretary; R. H. Metcalf, financier; John P. Frey, editor; Iron Molders' Union No. 4, Daniel Twohig, president; Henry Hinnenkamp, business agent; Iron Molders' Union No. 20, Henry Hinnenkamp, business agent; Iron Molders' Union No. 432, John Prindle, president; Henry Hinnenkamp, business agent, and William Oberjohn, secretary, their confederates, servants, or agents, and any and all persons aiding and abetting them, or any of them, now or hereafter, be enjoined to absolutely desist and refrain—

From hindering, obstructing, or stopping any of the business of the Newport Iron & Brass Foundry Co., in the city of Newport, Campbell County, Ky., or elsewhere.

Also from entering upon the grounds or places where the employees of the Newport Iron & Brass Foundry Co. are at work for the purpose of and in such a manner as to interfere with, hinder, or obstruct the business of the Newport Iron & Brass Foundry Co. in any manner whatsoever.

Also from compelling or inducing or attempting to compel or induce, by threats, intimidation, force, or violence, any of the employees of the Newport Iron & Brass Foundry Co. to refuse or fail to do their work or discharge their duties as such employees.

Also from compelling or inducing or attempting to compel or induce, by threats, intimidation, force, or violence, any of the employees of the Newport Iron & Brass Foundry Co. to leave its service.

Also from preventing or attempting to prevent any person or persons, by threats, intimidation, force, or violence, from freely entering into the service or employment or continuing in the service and employment of the Newport Iron & Brass Foundry Co.

Also from compelling or inducing or attempting to compel or induce, by threats, intimidation, force, or violence, any person or persons whomsoever from assisting and aiding the Newport Iron & Brass Foundry Co. in the conduct of its business, and from doing any act whatever in furtherance of any conspiracy or combination to restrain or obstruct the operation of the business of the Newport Iron & Brass Foundry Co.

Also from ordering, aiding, assisting, or abetting in any manner whatever any person or persons to commit any or either of the acts aforesaid.

Also from congregating or being upon or about the sidewalks, streets, alleys, or approaches adjoining or adjacent to where the said employees of said Newport Iron & Brass Foundry Co. may be for the purpose and in such a manner as to intimidate said employees or coerce said employees or any of them from rendering their service or discharging their duties to the Newport Iron & Brass Foundry Co.

Also from inducing or coercing by threats, force, or violence any of the employees of the Newport Iron & Brass Foundry Co.

Also from in any manner interfering with the Newport Iron & Brass Foundry Co. in carrying on its business in the usual and ordinary way.

Also from acting in such a manner as to intimidate or in any manner interfering with or molesting any person or persons who may be employed by or who may be seeking employment with the Newport Iron & Brass Foundry Co. in the operation of its business.

Also either singly or in combination with others from collecting in and about the approaches to the place of business of the Newport Iron & Brass Foundry Co. for the purpose of picketing or patrolling or guarding the streets, avenues, gates, and approaches to the place of business of the Newport Iron & Brass Foundry Co. in such a manner as to interfere with the business of the Newport Iron & Brass Foundry Co. or its employees or in such a manner as to threaten, coerce, or frighten any of the employees of the Newport Iron & Brass Foundry Co., or cause its employees to leave and abandon their employment with the Newport Iron & Brass Foundry Co.

Also from preventing any person or persons from seeking employment with the Newport Iron & Brass Foundry Co.

Also from interfering with the employees of the Newport Iron & Brass Foundry Co. in going to and from their daily work at the Newport Iron & Brass Foundry Co.'s place of business.

And also from going either singly or collectively to the homes of the employees of the Newport Iron & Brass Foundry Co. or any or either of them for the purpose of and in such a manner as to intimidate or coerce any or all of the said employees to leave the employment and service of the Newport Iron & Brass Foundry Co., or prevent any person or persons from entering its employment or service.

And also from intimidating and threatening in any manner the wives and families of said employees at their homes or elsewhere.

And it is further ordered that this order shall be in force and binding upon each of the defendatns, and all of them named in the bill, from and after service upon them of said order by delivering to them a copy or by reading the same to them, and shall be binding upon defendants whose names are alleged to be unknown from and after publication thereof by posting or printing, and shall be binding upon all defendants and all other person whatsoever from and after the time they severally have knowledge of the allowance of this order.

AFFIDAVIT OF EDWARD KELLAR.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, complainant, *v.* The Iron Molders' Union of North America, defendants. No. 5929.

STATE OF KENTUCKY, *Campbell County:*

Affiant Edward Kellar being duly sworn says that he is 25 years of age and lives at 508 Powell Street, Newport, Ky.; that he is a molder by trade and has been so engaged for about two and a half years, and has been employed as such in the Newport Iron & Brass Foundry, of Newport, Ky., since July 13, 1904, up to the present date. Affiant says that on Wednesday evening, September 7, 1904, two men came to his (affiant's) house on Lowell Street, one of whom had a cane in his hand. They both opened the gate and came in to the kitchen door and asked affiant out and affiant refused to go. Affiant asked them to come in, which they did and sat down. They asked affiant to go out with them on the strike and the affiant says he would not give

them any satisfaction. They then said "If you will not go out it will not take us long to get a crowd and beat hell out of you." One of the men rapped affiant on the leg with his cane as they all stood at the door and said "Say, partner, you had better come and go out with us." Affiant says that his (affiant's) wife was present and heard all of the conversation that took place and that the two men were there about half an hour talking with affiant. Affiant says further that on Tuesday, September 6, 1904, one named Bill Moelk, a molder, before employed at said aforementioned place, came to affiant and called him out of the foundry building and urged affiant to quit his place at said foundry. When affiant refused to do so, said Moelk said "Well, you know whats what" in a threatening manner, calculated to put affiant in name. Affiant says one of the men who came to his house as stated is named James Moore, and was formerly employed as a molder at said foundry.

ED. KELLAR.

Subscribed and sworn to by the affiant, Edward Kellar, before me this 20th day of September, 1904.

[SEAL.] HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

My commission expires January 11, 1906.

AFFIDAVIT OF HENRY J. WEBER.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, complainant, *v.* The Iron Molders' Union of North America et al., defendants.

STATE OF KENTUCKY, *County of Campbell:*

Henry J. Weber, 35 years of age, being duly sworn says that he is a resident of Newport, Ky., and his occupation is that of general manager of the Newport Iron & Brass Foundry Co., incorporated in Campbell County, Ky., stituated at Twelfth and Lowell, Newport, Ky., and that he has been employed as such since February, 1900, and that on the 3d day of September, 1904, a strike was declared in said foundry by the molders who left the foundry premises in a body and since that time same molders, to wit, Paul Lindholz, Louis Feldman, Henry Santel, Albert Deitrich, Herman Ballman, Phillip Schrader, Emil Diehl, Wm. Treslar, Joseph Beyer, George Nie, Fred Ballman, Daniel Velten, Robert Fulner, William Moelk, Nicalous Attendorn, Albert Sanders, Albert Berning, Henry Drees, Charles Braun, Abner Peirce, William Nie, Henry Lewedaz, James Moore, James Wolf have at different times picketed the foundry from 6 o'clock in the morning till the said foundry was closed in the evening, at no time being less than 5 and sometimes 10 and 15 in one day, until the 17th day of September the following were seen by affiant: Paul Lindholz, Louis Feldman, Albert Deitrich, Herman Ballman, Phillip Schrader, Emil Diehl, William Treslar, Joseph Beyer, Fred Ballman, Daniel Velten, Robert Fulner, William Moelk, Albert Sanders, Ben (sometimes known as Babbie) Berning, Charles Braun, Abner Peirce, Wm. Nie, Henry Lewedaz, and James Moore, and on the 19th day of September, 1904, affiant saw all the above-named molders and also Henry Santel, Nicolaus Attendorn, and Henry Drees, molders formerly employed by the foundry company, said affiant also declares he saw James Moore, a molder who went on a strike, go into the premises on September 19, 1904, without permission looked into the foundry and went across the street joining a group of molders formerly employed there.

Affiant further says that he made arrangements on September 17 to teach four of his employees who were laborers, namely, Fred Wagner, Frank York, Pole Harrison, and James Shanks, the trade of molding, to begin September 19, 1904; same worked at the trade that day. In the evening affiant searched each one for deadly weapons and none were found. With these four men and one laborer, named William Martin, who was also searched for deadly weapons and none found, affiant left the foundry company's premises, he bringing up the rear, and proceeded up Twelfth Street. Molders from the lower corner came running up to us and started to crowd around, calling names, such as "scabs." The farther we got along the street the more molders congregated near us until we reached a saloon a little past Thornton Street, when John Berkley caught hold of Fred Wagner's arm, tried to stop him, and said, "I want to talk to you." Fred Wagner pulled away from him and said, "I don't want to talk to you." Whereupon affiant said to Berkley, "The men don't want to talk to you; leave them alone." Berkley then turned to affiant and said, "What have you got to say?" at the same time

catching hold of affiant's shoulder and backing him up against a fence, other molders crowding near. Said Berkley assumed a very threatening attitude, holding one hand in the rear of him ready to strike, when affiant said to Berkley, "John, you don't know what you are doing; you are drunk." Then Charles Braun, another striking molder, said, "No, he ain't." Affiant further said that there were from 10 to 15 striking molders around him at the time. At this time their attention was drawn to the employees of the foundry, namely, Pole Harrison, Fred Wagner, James Shanks, Frank York, and William Martin, who were a little distance ahead, by one Charles Davis, deputy sheriff of Campbell County, Ky., going up to William Martin and saying, "I want you." Affiant asked said Davis, "What for?" Davis answered, "Carrying concealed weapons." Affiant told him (Davis) that he (affiant) searched him and found none. Davis searched Martin and found none, and turned to me and said, "Have any of the other men got weapons?" Affiant said, "No." Davis searched them also and found nothing. We proceeded on, the strikers hooting, calling names, crowding around us, jostling and pushing us this and that way in order to separate us until we reached the corner of Eleventh and Brighton, where we intended to catch a car for Covington.

Affiant further states that before he and his employees reached this corner William Martin had left them. While waiting for car the molders continued to gather around us, pushing this and that way in order to start a fight. He tried to keep the striking molders away from foundry employees by keeping an open space around the employees until Joseph Beyer, a striking molder, hit Frank York with his fist; then Ben Berning (called Babbie by his fellow workmen), also a striking molder, also hit Frank York; then a general scuffle ensued, and in the scuffle affiant recognized Joseph Beyer, Ben Berning, John Berkley; meanwhile the crowd calling "scab"; "give it to them." Affiant then missed Fred Wagner and went to look for him. When he succeeded, he tried to place them all on a car which had stopped at the crossing, but the crowd was so large that we could not get on, some persons calling "don't let them get on." The next car came along, and James Shanks, Pole Harrison, and Fred Wagner succeeded in boarding the car, leaving Frank York and affiant at the corner surrounded by at least 300 people, who continued to call "scab." We waited for the next car, but we were not allowed to step on. Finally affiant and Frank York started to walk over the bridge, followed by a great number of people. Affiant says further that he is now unable to employ any molders or men willing to engage at the trade of molding on account of the assault on the foundry employees; also that Frank York, Pole Harrison, Fred Wagner, and James Shanks refuse to work for the foundry, as they are afraid of their lives.

Affiant further states that members of Core Makers' Union No. 432, a branch of the Iron Molders' International Union, office in Cincinnati, Ohio, who were formerly employed at the foundry previous to the strike, are also picketing the foundry.

HENRY J. WEBER.

Subscribed and sworn to by affiant, Henry J. Weber, before me this 21st day of September, 1904.

[SEAL.] HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

My commission expires January 11, 1906.

AFFIDAVIT OF HENRY J. WEBER.

In the Circuit Court of the United States, Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, plaintiff, *v.* The Iron Molders' Union of North America et al., defendants. No. 5929.

STATE OF OHIO, *Hamilton County, ss:*

Henry J. Weber, being first duly cautioned and sworn, deposes and states that he is a resident of Newport, Ky.; that he is the general manager of the Newport Iron & Brass Foundry Co.; that the names of the following persons, to wit, Paul Lindholz, Louis Feldman, Henry Sentel, Albert Dietrich, Herman Ballman, Philip Schrader, Emil Diehl, Wm. Treslar, Joseph Beyer, George Nie, Fred Ballman, Daniel Vilten, Robert Fulner, William Moelk, Nicholas Attendorn, Albert Sanders, Albert Berning, Henry Drees, Charles Braun, Abner Pierce, William Nie, Henry Lewedaz, James Moore, James Wolf, and John Beckly, all named in his affidavit and in the affidavits of Edward Kellar, Fred Wagner, Pole Harrison, James Shanks, and Frank York, all dated the 21st day of September, 1904, before Henry C. Dumont, notary public,

Campbell County, Ky., and filed in this case, are members of the unions made defendants herein; that the attached constitution and by-laws, marked "Exhibit A," are the constitution and by-laws of defendant unions; that the letter dated June 24, 1904, hereto attached and marked "Exhibit B," is an official letter from said defendant unions through Henry Hinnenkamp, their business agent; that said letter contains the demand made on plaintiff by said unions, and that for not complying with same the present strike was instituted by said local unions, under the instruction, control, and assistance of the Iron Molders' Union of North America, made defendant herein, and that the said Iron Molders' Union of North America assists, controls, manages, and is responsible for all the acts complained of in the bill filed herein.

HENRY J. WEBER.

Sworn to before me and subscribed in my presence this 23d day of September, 1904.

[SEAL.] FRANK P. GARRISON,
Notary Public, Hamilton County, Ohio.

(Here follows the constitution and rules of order of the Iron Molders' Union of North America, adopted at Toronto, Ontario, July 24, 1902.)

CINCINNATI, OHIO, *June 23, 1904.*

NEWPORT IRON & BRASS FOUNDRY CO.,
Twelfth and Lowell Streets, Newport, Ky.

GENTLEMEN: The following was received from F. Johannigmann, as secretary of the foundrymen of Cincinnati, Covington, Newport, and vicinity:

CINCINNATI, *June 13, 1904.*

To the CORRESPONDING SECRETARY OF I. M. U. No. 4,
Cincinnati, Ohio.

DEAR SIR: At a meeting of the foundry proprietors of Cincinnati, Covington, Newport, and vicinity, held this day, it was unanimously resolved:

"That the secretary notify the I. M. U. No. 4, of Cincinnati, that they will consider all agreements between themselves and the above-mentioned I. M. U. No. 4 terminated on July 31, 1904, and to be null and void and of no effect after July 31, 1904."

Respectfully, F. JOHANNIGMANN, *Secretary.*

At a joint meeting of Iron Molders' Unions, Nos. 4 and 20, and Coremakers' Union, No. 432, held June 16, 1904, it was unanimously resolved that the business agent notify each foundryman of the following demands for the ensuing year:

1. That on and after August 1, 1904, the minimum rate of wages to be paid to floor molders shall be $3.20 per day, and to bench molders $3 per day, and to coremakers $2.50 per day of 10 hours.

2. That all overtime, except in cases of accident or causes beyond control, not consuming more than 30 minutes' time, shall be paid for at the rate of time and one-half time, and double time for Sundays and legal holidays, to wit, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

3. All local conditions for molders to remain in force as heretofore.

Awaiting an early reply, I remain,

Yours, respectfully, HENRY HINNENKAMP,
Business Agent, Unions Nos. 4, 20, and 432,
621 Walnut Street, Rooms 13 and 14.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

AFFIDAVIT OF FRED WAGNER.

The Newport Iron & Brass Foundry Co., a corporation under the laws of the State of Kentucky, complainant, *v.* The Iron Molders' Union of North America et al., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant Fred Wagner, being duly sworn, says that he is 35 years of age and lives at No. 103 East Linn Street, Covington, Ky.; that he is a casting chipper by occupation; that he has been employed as a casting chipper at the Newport Iron & Brass Foundry Co.'s foundry, at Twelfth and Lowell Streets in Newport, Ky., since the 7th of July,

1904. Affiant says that the molders employed at said foundry struck on September 3, 1904, and that since said time the said molders have watched and picketed the place, coming on about 6 o'clock in the morning and staying around said foundry all the day. Affiant says that sometimes there would be 5 or 6, sometimes 10 or more, so engaged. Affiant says that he left said foundry about 20 minutes of 6 on Monday evening, September 19, in company with Henry J. Weber, Frank York, Pole Harrison, and James Shanks, and walked down street to Thornton Street when John Berkley stepped up to affiant and took hold of affiant's sleeve and said, "I want to talk with you." Affiant said "I don't want to talk with you," and pulled away; there was a large crowd of molders around and with said Berkley, who was formerly employed as a molder at the same foundry where affiant works. Affiant and the others proceeded down the street followed by the crowd until the affiant got to the car barn when the crowd gathered around, some of them saying, "Pole" (referring to Pole Harrison), "We will get you to-night." "Let us take him home," and raising a great tumult and excitement. While affiant was standing on the sidewalk some one struck Frank York, and affiant was pushed by the crowd on out into the street. Affiant says that at least 150 people had gathered on the street, but affiant saw no more fighting, but got on a car and got away.

FRED WAGNER.

Subscribed and sworn to before me by affiant Fred Wagner this 31st day of September, 1904.

[SEAL.]

HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

My commission expires January 11, 1906.

AFFIDAVIT OF POLE HARRISON.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, plaintiff, *v.* The Iron Molders' Union of North America et al., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Affiant, Pole Harrison, being duly sworn, says that he is now 22 years of age; that he lives on the corner of Edward and Oliver Streets in Covington, Ky.; that he has been employed for the last two years as foreman of the casting chippers; that for more than two weeks there was a strike on by the molders at affiant's place of employment, to wit, the Newport Iron & Brass Foundry Co.'s place of business in Newport, Ky.; that said molders have been for the last two weeks or more picketing, watching, and guarding said foundry. Affiant says that some days there would be 10 or more molders, most of whom were known to this affiant, picketing said foundry. Affiant says that on Monday morning, September 19, about 20 minutes of 7 in the morning said affiant was stopped on the Chesapeake & Ohio Railroad bridge by Paul Linholtz, Al Sandner, and Louis Feltman, and they said that affiant was armed; was getting men to work for the foundry, and said that they would take affiant to jail. Affiant told them that he had not disturbed them and went on to the foundry and went to work. When affiant left work at about 20 minutes of 6 p. m. he was with Henry J. Weber, Frank York, James Shanks, William Martin, and Fred Wagner, all of whom were laborers except Henry J. Weber, when they were stopped by John Berkley, a molder who had been employed before the strike by said foundry. Fred Wagner was stopped first when Mr. Henry J. Weber stepped in and the molders said they wanted to talk with affiant. No violence was attempted until affiant got to the car barns at Eleventh and Brighton Streets, when the fight began. York was struck by Joseph Bryn, a striking molder, first, then by Albert Berning, then affiant was struck by somebody's fist, then by a rock; then affiant was struck by several persons to this affiant unknown, but affiant thinks that they were striking molders. There were the following named molders who followed affiant from Thornton Street to Twelfth Street: Fred Bahlman, Albert Berning, Ab Pierce, Al Dietrich. Affiant then got on a street car with Wagner and Shanks, who was hit by some one in the trouble, but by whom or with what this affiant can not say. Affiant says that he was doing apprentice work on said day and that the conduct, language, and threats of said molders are sufficient to cause this affiant reasonable fear of danger to his life or limb in pursuing or following his said employment in said foundry. And affiant says further that one of said striking molders,

one James Moore, has been picketing the house of said affiant since said trouble as detailed; and further deponent saith not.

POLE HARRISON.

Subscribed and sworn to before me by said affiant, Pole Harrison, this 20th day of September, 1904.

[SEAL.] HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

(The foregoing affidavit had on it the following file mark: Filed Sept. 27, 1904. B. R. Cowen, clerk.)

AFFIDAVIT OF FRANK YORK.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, complainant, *v.* The Iron Molders' Union of North America et al., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

Frank York, 21 years of age, being duly sworn says that he is a resident of Covington, Ky., and his occupation is that of a laborer; that he was employed as such since the 10th of January, 1904, at the Newport Iron & Brass Foundry Co., situated at the southeast corner of Eleventh and Brighton Streets, in Newport, Campbell County, Ky.; that since about the 3d day of September, 1904, men who worked as molders in said aforementioned place have been engaged in watching and picketing said place aforementioned almost every day some 4, 5, or 6 and within the last week 10 or more, would be so engaged. Among those present were Herman Ballman, Paul Linholtz, Joseph Beyer, Albert Berning, who were so engaged in said picketing said place of employment. Affiant says that said aforementioned and others whom affiant knows by sight but not by name were employed as molders in said foundry but have been since on or about September 3, 1904, on a strike. Affiant says further that he left said foundry aforementioned about 20 minutes of 6 p. m. in company with H. J. Weber, Pole Harrison, Fred Wagner, James Shanks, and William Martin and proceeded as far as Thornton Street in said city of Newport, Ky, when one of said striking molders by the name of John Berkley said he wanted to talk with affiant and caught hold of Henry J. Weber in a very threatening attitude, shoving said Weber up against the fence. Affiant and the others aforementioned then went on to Fourth and Brighton Streets in said city when and where this affiant stopped to take a street car, when said Joseph Beyer came up and said to affiant "You had better take a fool's advice and keep out of this." Affiant said "I don't want to talk to you. go away," when said Joseph Beyer struck affiant with his fist on the right shoulder. Said Albert Berning then came up and said "Give it to him," and struck said affiant with something in his hand, striking affiant over the left eye, cutting a deep wound and causing a flow of blood. Several of said molders jumped on said affiant and tried to strike him. Affiant got away and walked across the street, when some person this affiant did not know struck affiant from behind in the jaw. Affiant said that a large number of persons had crowded up to and around said affiant, calling out "scab," "Throw him into the river," and many other epithets and threatening language that thereafter he tried to get on a car and was pulled off and not allowed to remain thereon, and that thereafter he and Henry J. Weber got away from the crowd who followed affiant and said Weber to the bridge over the Licking River. Affiant says that there were at least 300 people in the crowd, many of whom were around about him and that the conduct of all were of a threatening character. Among other things that were said "Does Weber want any molders to-morrow?" and affiant says that he was and is afraid to engage in his said occupation at said foundry by reason of the conduct and language used on said day as above set out and that there is probable danger to his life or limb if he remains as such employee and further deponet saith not.

FRANK YORK.

Subscribed and sworn to by affiant, Frank York, this 20th day of September, 1904.

[SEAL.] HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

My commission expires January 11, 1906.

(The following file mark appeared on the cover of the foregoing affidavit: Filed Sept. 27, 1904. B. R. Cowen, clerk.)

AFFIDAVIT OF JAMES SHANKS.

In the Circuit Court of the United States for the Southern District of Ohio, Western Division.

The Newport Iron & Brass Foundry Co., a corporation organized under the laws of the State of Kentucky, plaintiff, *v.* The Iron Molders' Union of North America et al., defendants.

STATE OF KENTUCKY, *County of Campbell, ss:*

James Shanks, being duly sworn, says that he is 34 years of age; lives at 72 East Bush Street, Covington, Ky.; occupation, core-sand mixer, and has been employed at the Newport Iron & Brass Foundry in Newport, Campbell County, Ky., since May 16, 1904; that, further, the molders employed in said foundry have been on a strike since the 3d day of September, 1904; that since they have been out on said strike said molders or some of them have been engaged from day to day in watching and picketing said foundry, from 5 to 10 molders being so engaged, the number varying from day to day. George Nyr, Albert Sandner, a man named Big Bill, Paul Linholtz, Louis Feltman, all of whom were striking molders, were so engaged on different days. Affiant says that these men with others would stay on duty all day watching said foundry and persons going in and out. On Monday, September 19, this affiant left said foundry at close of work and was in company with others of the laborers engaged in said foundry and on their way down the street was followed by a large crowd of molders, some of whom he knew and others were strangers to him. One of said molders took hold of Henry J. Weber, the superintendent of said foundry, and stopped him, pushing him up against the fence on the side of the street. Said molder, John Beckly by name, pulled Mr. Weber around in a rough manner and pulled off as if to strike him, when Mr. Weber said, "Beckly, you are drunk." Mr. Weber then got loose, and we then went on down to the car barns, when we stopped, and the crowd separated me from some of the other men. The crowd, or some of them, said to Pole Harrison, "We will get you and Fred Bahlman also;" one of the striking molders looked right at this affiant and said, "Yes, and we will get you, too." Affiant says that he did not see any striking, but some in the crowd said, "Give it to him." Affiant says that when he was crowded away from the other men John Berkly struck affiant with his fist on the side of the head; when some man got in between them, and affiant then walked across the street and got on a car and went home.

JAMES SHANKS.

Subscribed and sworn to before me by affiant, James Shanks, this 21st day of September, 1904.

[SEAL.]

HENRY C. DUMONT,
Notary Public, Campbell County, Ky.

My commission expires January 11, 1906.

(The following file mark appeared on the cover of the foregoing affidavit: Filed Sept. 27, 1904. B. E. Dilley, clerk.)

THE UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

I, B. E. Dilley, clerk of the district court of the United States within and for the district and division aforesaid, do hereby certify that the foregoing are true and correct copies of the original bill of complaint, writ of injunction, affidavit of Edward Kellar, affidavits of Henry J. Weber, affidavit of Fred Wagner, affidavit of Pole Harrison, affidavit of Frank York, affidavit of James Shanks, as the same appear on file and of record in my office, in the therein entitled cause.

In witness whereof I have hereunto set my hand and affixed the seal of said court at the city of Cincinnati, Ohio, this 27th day of June, A. D. 1912.

[SEAL.]

B. E. DILLEY, *Clerk*,
By HARRY F. RABE, *Deputy*.

EXHIBIT G.

In the Circuit Court of the United States for the District of Kansas, First Division.
In equity, No. 8488.

The Armourdale Foundry Co., complainant, *v.* The Iron Molders' Union No. 162, George Allison, John Hogan, William Scholl, Frank Scholl, Frank Monigle, William Hedges, A. Wilkerson, Fritz Frank, William Harper, W. Dysart, John Peck, and Al Bauer, defendants.

ORDER.

On this day came on to be heard the application of the complainant for temporary injunction in this case, upon consideration whereof, it is:

Ordered that the said application be, and it is hereby, set for hearing before this court at Topeka, Kans., on the 19th day of November, 1906, at 2 o'clock p. m.

And it is further ordered that in the meantime, and until the further order of the court in the premises, the defendants, George Allison, John Hogan, William Scholl, Frank Scholl, Frank Monigle, William Hedges, A. Wilkerson, Fritz Frank, William Harper, W. Dysart, John Peck, and Al Bauer, and The Iron Molders' Union No. 162, and all the members of The Iron Molders' Union No. 162, and other persons acting in combination or conspiring with them be, and they are hereby, temporarily enjoined and restrained from injuring, molesting, or interfering with the property or business of the complainant, the Armourdale Foundry Co., by means of force, coercion, or intimidation of any character whatsoever, either directly or indirectly, and from in like manner molesting or interfering with the employees of said complainant, or any person who may desire to enter the employment of said complainant.

It is further ordered that a copy of this order be forthwith served upon the parties bound hereby.

Dated at Topeka, Kans., this 2d day of November, 1906.

JOHN C. POLLOCK, *Judge.*

Restraining order filed November 2, 1906.

GEO. F. SHARITT.

(Indorsement:) No. 8488. Copy restraining order. Filed November 6, 1906. Geo. F. Sharitt, clerk.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8488.

Armourdale Foundry Co., complainant, *v.* Iron Molders' Union No. 162 et al., defendants.

ORDER.

Now, on this 19th day of November, A. D. 1906, the complainant herein appearing by its attorney, and for good cause shown;

It is ordered by the court that the hearing of the application for temporary restraining order and injunction in this case be, and the same is continued until the 26th day of November, A. D. 1906, at 2 o'clock p. m., and the restraining order heretofore issued in this cause to remain in full force until further ordered.

JOHN C. POLLOCK, *Judge.*

(Indorsement;) No. 8488. In the Circuit Court of the United States for the District of Kansas, First Division. Armourdale Foundry Co., complainant, *v.* Iron Molders' Union No. 162 et al., defendants. Order continuing restraining order. Filed November 19, 1906. Geo. F. Sharitt, clerk.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8488.

The Armourdale Foundry Co., complainant, *v.* The Iron Molders' Union No. 162 et al., defendants.

ORDER.

Now on this 26th day of November, 1906, the plaintiff appearing by its solicitor, A. L. Berger, and the defendants served herein failing to appear, and it being represented to the court that E. R. Morrison, attorney representing certain defendants herein, was and is unable to be present at the hearing and desired application for temporary injunction to be passed,

It is ordered by the court that the hearing of the application for temporary restraining order and injunction in this case be and same is hereby continued and is not to be called up for hearing except on notice by defendants to complainant's solicitor, and further ordered that the restraining order heretofore issued in this cause to be and remain in full force until further ordered.

JOHN C. POLLOCK, *Judge.*

(Indorsement:) 8488. Order continuing restraining order. Filed November 26, 1906. Geo. F. Sharitt, clerk.

True copy.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8488.

The Armourdale Foundry Co., complainant, *v.* The Iron Molders' Union No. 162, George Allison, John Hogan, William Scholl, Frank Scholl, Frank Monigle, William Hedges, A. Wilkerson, Fritz Frank, William Harper, W. Dysart, John Peck, and Al Bauer, defendants.

FINAL DECREE.

It appearing to the court that bill in equity in the above-entitled cause was filed in this court on November 2, 1906, and that subpœnas were issued and served on the Iron Molders' Union No. 162, George Allison, Frank Monigle, William Hedges, A. Wilkerson, W. Dysart, and Al Bauer, defendants herein; and

That the said the Iron Molders' Union, No. 162, George Allison, Frank Monigle, William Hedges, A. Wilkerson, W. Dysart, and Al Bauer entered their appearance herein to the order of this court against them, being represented by their counsel, Walsh & Morrison; and

Thereupon the plea filed by the defendants served and appearing in this cause is withdrawn, and the said bill filed by the complainant is to be taken as true and confessed; and

The court being well and fully advised doth sustain the allegations contained in the bill filed by the complainant herein and does grant a perpetual injunction as prayed for in said bill against the following defendants: George Allison, Frank Monigle, William Hedges, A. Wilkerson, W. Dysart, and Al Bauer:

It is therefore ordered, adjudged, and decreed that the temporary restraining order and injunction heretofore issued by this court commanding the said defendants George Allison, Frank Monigle, William Hedges, A. Wilkerson, W. Dysart, and Al Bauer, and all parties acting in combination and conspiracy with the above-mentioned persons to refrain from injuring, molesting, or interfering with the property or business or the employees of the complainant. The Armourdale Foundry Co., by coercion or intimidation of any character whatever, either directly or indirectly, and from in like manner molesting or interfering with the employees of the said complainant or with any person or persons who may desire to enter the employ of the said complainant, be, and is hereby, made perpetual;

And it is further decreed that said complainant recover from the defendants herein perpetually enjoined its costs herein taxed at $———, and thereof have execution.

The cause by consent of parties as to defendants, the Iron Molders' Union No. 162 and William Brice, as president and as individual, is hereby dismissed, and the said William Brice and the Iron Molders' Union No. 162 by counsel waiving any claim against the complainant herein, and this cause as to the defendants John Hogan, William Scholl, Frank Scholl, Fritz Frank, William Harper, and John Peck, not served with subpœna, is continued and reserved for further consideration.

JNO. F. PHILIPS, *Judge.*

(Indorsed:) 8488. Armourdale Foundry Co. *v.* Iron Molders' No. 162 et al. Final decree filed June 7, 1907. Geo. F. Sharitt, clerk.

In the Circuit Court of the United States for the District of Kansas, First Division.

Riverside Iron Works Co., complainant, *v.* the Iron Molders' Union, No. 162, Jim Brough, Fritz Frank, A. De Pastel, John Hogan, ——— McCarty, whose first name is unknown, Ed Grumish, J. Seaman, Alex Tyffe, Al Bauer, William Brice, William Harper, John Peck, Dan Clark, A. Wilkerson, William Scholl, William Kerns, C. Lobinger, and A. Bergold, defendants.

ORDER.

On this day comes on to be heard the application of the complainant for a temporary injunction in this case, upon consideration whereof it is:

Ordered that the said application be, and it is hereby, set for hearing before this court at Topeka, Kans., on the 3d day of September, 1906, at 2 o'clock p. m., unless sooner noticed for hearing by defendants.

It is further ordered that in the meantime and until the further order of the court in the premises the defendants Jim Brough, Fritz Frank, A. De Pastel, John Hogan, ——— McCarty, whose first name is unknown, Ed Grumish, J. Seaman, Alex Tyffe, Al Bauer, William Brice, William Harper, John Peck, Dan Clark, A. Wilkerson, William Scholl, William Kerns, C. Lobinger, and A. Bergold, and the Iron Molders' Union, No. 162, and other persons acting in combination or conspiracy with them, be, and they are hereby, temporarily enjoined and restrained from injuring, molesting, or interfering with the property or business of the complainant, The Riverside Iron Works Co., by means of force, coercion, or intimidation of any character whatsoever, either indirectly or directly, and from in like manner molesting or interfering with the employees of said complainant, or any person who may desire to enter the employ of said complainant.

It is further ordered that a copy of this order be forthwith served upon the parties bound hereby.

Dated at Topeka, Kans., June 30, A. D. 1906. Bond required to be given within five days in the amount of twenty-five hundred dollars.

JOHN C. POLLOCK, *Judge*.

UNITED STATES OF AMERICA, *sct.:*

I, George Sharitt, clerk of the circuit court of the United States in and for the district of Kansas, first division, hereby certify that the foregoing is a true copy of the restraining order in the cause herein named, as fully as the same appears in my office.

Witness my hand as clerk, and the seal of said court. Done at office in Topeka, Kans., this 30th day of June, A. D. 1906.

[SEAL.] GEO. SHARITT, *Clerk*.

(Indorsed:) 8453. Riverside Iron Works Co. *v.* The Iron Molders' Union, No. 162, et al. Restraining order. Filed June 30, 1906. Geo. Sharitt, clerk.

True copy.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8453.

Riverside Iron Works Co., a corporation, complainant, *v.* The Iron Molders' Union No. 162, Jim Brough, Fritz Frank, A. De Pastel, John Hogan, ——— McCarty (whose first name is unknown), Ed Grumish, J. Seaman, Alex Tyffee, Al Bauer, William Brice, William Harper, John Peck, Dan Clark, A. Wilkerson, William Scholl, William Kerns, C. Lobinger, and A. Bergold, defendants.

ORDER.

Now, on this 9th day of October, 1906, comes complainant by its solicitor, A. L. Berger, and the answering defendants by their solicitor, E. L. Fischer—the other defendants making default—and this cause being submitted to the court on the complainant's bill and the affidavits filed in support thereof, and the court being fully advised in the premises:

It is ordered that a temporary restraining order and injunction issue out of and under the seal of this court to the said defendants, Fritz Frank, A. De Pastel, John Hogan, John Seaman, Al Bauer, William Harper, The Iron Molders' Union No. 162, and all other members of said order, and other persons who may be served with or have notice and knowledge of this order, acting in combination and conspiracy with the above-named defendants and persons, to refrain from injuring, molesting, or interfering with the property or business or the employees of the complainant, The Riverside Iron Works Co., by means of force, coercion, or intimidation of any character

whatever, either directly or indirectly, and from in like manner molesting or interfering with the employees of said complainant, or with any person who may desire to enter the employment of said complainant.

It is further ordered that this restraining order and injunction shall be in full force and effect upon and from the filing by complainant in this case, within 10 days, a bond in the sum of $2,500 to be approved by this court.

This order shall be in effect and remain in force during the pendency of this suit, and until the further order of the court in the premises.

JOHN C. POLLOCK, *Judge.*

(Indorsement:) No. 8453. Riverside Iron Co., complainant, *v.* Iron Molders' Union No. 162 et al., defendants. Temporary injunction. Original. Filed October 9, 1906. George F. Sharitt, clerk.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8453.

Riverside Iron Works Co., complainant, *v.* The Iron Molders' Union No. 162 et al., defendants.

FINAL DECREE.

It appearing to the court that bill of equity in the above-entitled cause was filed in this court on June 30, 1906, and that subpœnas were issued and served on the Iron Molders' Union No. 162, Jim Brough, A. Bauer, Dan Clark, Fritz Frank, J. Seaman, John Hogan, A. De Pastel, and William Harper, defendants herein, and that the said The Iron Molders' Union No. 162, A. Bauer, Fritz Frank, John Hogan, A. De Pastel, J. Seaman, and William Harper entered their appearance herein to the order of this court against them, and filed their answer to the bill filed by the complainant, being represented by their counsel, E. L. Fischer, and that the said Jim Brough and Dan Clark, defendants herein, failed to appear, demur, or answer to the bill filed by the complainant, although such pleading should have been filed on or before proper rule day, and thereupon by consent of counsel for defendants served and appearing in this case, except as to defendants herein set forth as not appearing—no appearance having been entered by Jim Brough and Dan Clark and no answer or demur having been filed—the said bill filed by the complainant is to be taken as true and confessed; and,

The court being well and fully advised, doth sustain the allegations contained in the bill filed by the complainant herein, and does grant a perpetual injunction as prayed for in said bill against the following defendants: Jim Brough, Dan Clark, Fritz Frank, John Hogan, A. De Pastel, J. Seaman, and William Harper.

It is therefore ordered adjudged, and decreed that the temporary restraining order and injunction heretofore issued by this court commanding the said defendants, Fritz Frank, Jim Brough, Dan Clark, John Hogan, A. De Pastel, J. Seaman, and William Harper, and all other members of the Iron Molders' Union No. 162, and all other parties who may be served, or have notice or knowledge of this order, and acting in combination and conspiracy with the above-mentioned persons, to refrain from injuring, molesting, or interfering with the property or business or the employees of the complainant, the Riverside Iron Works Co., by coercion or intimidation of any character whatever, either directly or indirectly, and from in like manner molesting or interfering with the employees of said complainant, or with any persons who may desire to enter the employ of said complainant, be, and hereby is, made perpetual; and

It is further decreed that said complainant recover from defendants herein, perpetually enjoined, its costs herein, taxed at $——, and thereof have execution.

The cause, by consent of parties, as to defendants, the Iron Molders' Union No. 162 and A. Bauer, is hereby dismissed, and said A. Bauer and the Iron Molders' Union No. 162, by its counsel, waiving any claim against the complainant herein, and this cause as to the defendants, ——— McCarthy, Ed. Grumish, Alex Tyffe, William Brice, John Peck, A. Wilkderson, William Scholl, William Kerns, C. Lobinger, and A. Bergold, not served with subpœna, is continued and reserved for further consideration.

JOHN C. POLLOCK, *Judge.*

O. K.

A. L. BERGER,
Solicitor for Complainants.
E. L. FISCHER,
Solicitor for Defendants.

(Indorsed:) No. 8453. Riverside Iron Works Co., complainants, *v.* Iron Molders' Union No. 162 et al. Final decree. Filed January 14, 1907. Geo. F. Sharitt, clerk.

Copy.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8487.

H. N. Strait Manufacturing Co., complainant, *v.* Iron Molders' Union No. 162 et al., defendants.

ORDER.

Now on this 19th day of November, A. D. 1906, the complainant herein appearing by its attorney and for good cause shown;

It is ordered by the court that the hearing of the application for temporary restraining order and injunction in this case be, and the same is hereby, continued until the 26th day of November, 1906, at 2 o'clock p. m., and the restraining order heretofore issued to remain in full force until further ordered.

JOHN C. POLLOCK, *Judge.*

(Indorsement:) No. 8487. In the Circuit Court of the United States for the District of Kansas, First Division. H. N. Strait Manufacturing Co., complainant, *v.* Iron Molders' Union No. 162 et al., defendants. Order continuing restraining order. Filed November 19, 1906. George F. Sharitt, clerk.

Copy.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8487.

H. N. Strait Manufacturing Co., complainant, *v.* Iron Molders' Union No. 162 et al., defendants.

ORDER.

Now on this 26th day of November, 1906, the plaintiff appearing by its solicitor, A. L. Berger, and the defendants served herein failing to appear and it being represented to the court that E. R. Morrison, attorney representing certain defendants herein, was and is unable to be present at the hearing and desired application for temporary injunction to be passed.

It is ordered by the court that the hearing of the application for temporary restraining order and injunction in this case be, and same is hereby, continued and is not to be called up for hearing except on notice by defendants to complainants' solicitor, and further ordered that the restraining order heretofore issued in this cause to be and remain in full force until further ordered.

JOHN C. POLLOCK, *Judge.*

(Indorsement:) No. 8487. Order continuing restraining order. Filed November 26, 1906. George F. Sharitt, clerk.

In the Circuit Court of the United States for the District of Kansas, First Division.
In equity, No. 8487.

H. N. Strait Manufacturing Co., complainant, *v.* The Iron Molders' Union No. 162, George Allison, William Hedges, Al Bauer, John Hogan, William Scholl, Frank Monigle, A. Wilkerson, Fritz Frank, William Harper, Dan Clark, A. Burgold, William Brice, and John Peck, defendants.

ORDER.

On this day came on to be heard the application of the complainant for temporary injunction in this case, upon consideration whereof,

It is ordered that the said application be, and it is hereby, set for hearing before this court at Topeka, Kans., on the 19th day of November, 1906, at 2 o'clock p. m.

And it is further ordered that in the meantime, and until the further order of the court in the premises, the defendants, George Allison, William Hedges, Al Bauer John Hogan, William Scholl, Frank Monigle, A. Wilkerson, Fritz Frank, William Harper, Dan Clark, A. Burgold, William Brice, John Peck and the Iron Molders' Union No. 162 and all the members of said Iron Molders' Union No. 162, and other

persons acting in combination or conspiracy with them be, and they are hereby, temporarily enjoined and restrained from injuring, molesting, or interfering with the property or business of the complainant, the H. N. Strait Manufacturing Co., by means of force, coercion, or intimidation of any character whatsoever, either directly or indirectly, and from in like manner molesting or interfering with the employees of said complainant, or any person who may desire to enter the employment of said complainant.

It is further ordered that a copy of this order be forthwith served upon the parties bound hereby.

Dated at Topeka, Kans, this 2d day of November, 1906.

JOHN C. POLLOCK, *Judge.*

(Indorsement:) No. 8487. Restraining order. Filed November 2, 1906. George F. Sharitt, clerk.

True copy.

In the Circuit Court of the United States for the District of Kansas, First Division.
No. 8487.

H. N. Strait Manufacturing Co., complainant, *v.* The Iron Molders' Union No. 162, Geo. Allison, Wm. Hedges, Al Bauer, John Hogan, Wm. Scholl, Frank Monigle, Al Wilkerson, Fritz Frank, Wm. Harper, Dan Clark, A. Burgold, Wm. Brice, and John Peck, defendants.

FINAL DECREE.

It appearing to the court that bill in equity in the above-entitled cause was filed in this court on November 2, 1906, and that subpœnas were issued and served on the Iron Molders' Union No. 162, George Allison, William Hedges, Al Bauer, Frank Monigle, Al Wilkerson, and William Brice, defendants herein; and

That the said the Iron Molders' Union No. 162, Frank Monigle, Al Wilkerson, William Brice, George Allison, William Hedges, and Al Bauer entered their appearance herein to the order of this court against them, being represented by their counsel, Walsh & Morrison; and

Thereupon the plea filed by the defendants served and appearing in this cause is withdrawn and the said bill filed by the complainant is to be taken as true and confessed; and,

The court being well and fully advised, doth sustain the allegations contained in the bill as filed by the complainant herein and does grant a perpetual injunction as prayed for in said bill against the following defendants: Frank Monigle, Al Wilkerson, George Allison, William Hedges, and Al Bauer;

It is therefore ordered, adjudged, and decreed that the temporary restraining order and injunction heretofore issued by this court commanding the said defendants, Frank Monigle, Al Wilkerson, George Allison, William Hedges, and Al Bauer, and all parties acting in combination and conspiracy with the above-mentioned persons to refrain from injuring, molesting, or interfering with the property or business or the employees of the complainant, H. N. Strait Manufacturing Co., by coercion or intimidation of any character whatever either directly or indirectly, and from in like manner molesting or interfering with the employees of the said complainant or with any person or persons who may desire to enter the employ of the said complainant be, and is hereby, made perpetual;

And it is further decreed that said complainant recover from the defendants herein, perpetually enjoined, its costs herein taxed at $——, and thereof have execution.

The cause by consent of parties as to defendants The Iron Molders' Union No. 162 and William Brice as president and an individual, is hereby dismissed and the said William Brice and the Iron Molders' Union No. 162 by counsel waiving any claim against the complainant herein, and this cause as to the defendants John Hogan, William Scholl, Fritz Frank, William Harper, Dan Clark, A. Burgold, and John Peck, not served with subpœna, is continued and reserved for further consideration.

JNO. F. PHILIPS, *Judge.*

(Indorsed:) No. 8487. Strait Manufacturing Co. *v.* Iron Molders' Union No. 162 et al. Final decree. Filed June 7, 1909. Geo. Sharitt, clerk.

STATE OF ILLINOIS, *Rock Island County, ss:*

In the circuit court of said county, to the —— term, A. D. 1909. Gen. No. ——.

The Rock Island Plow Co., a corporation, complainant, *v.* Iron Molders' Union No. 230 et al., defendants.

BILL FOR INJUNCTION—ORDER.

And now on this —— day of November, A. D. 1909, this cause coming on to be heard on the motion of complainant for temporary injunction, by its solicitors, Searle & Marshall, and upon reading the bill of complaint and accompanying affidavits, it is ordered that a writ of injunction issue in the above entitled cause against the Iron Molders' Union No. 230, August J. Utke, who is its president; and James C. McCormick, who is its secretary; and Joseph Trumble, who is its business agent; and William Ruhde, John Mulcahey, P. Appelquist, F. Berry, O. Krone, V. Larson, George Young, F. Sommers, B. Plogh, D. Donavan, William Rice, William Nickell, H. Stephan, William Reddig, George Smith, C. Welgenback, J. Fox, J. Shoemaker, P. Green, C. De Paipe, D. De Voe, William Herman, R. Eichman, C. Ryan, J. McCormack, J. Corken, A. Utke, A. Reddig, C. Strupp, M. Richards, P. Tunney, J. Yaeger, J. London, T. Faust, A. Blocklinger, C. Swanson, F. Haug, T. South, C. Lundberg, restraining them during the pendency of this suit

From in any manner interfering with, hindering, obstructing, or stopping the business of said complainant, or of its agents, servants, or employees in the operation and prosecution of the business of said complainant.

From picketing or maintaining at or near the premises of said complainant, or upon and along any public street or highway, or upon any private roadway or footpaths leading thereto, any picket or pickets, for the purpose of intimidating, threatening, or coercing any of its employees or any person or persons seeking employment with it.

From assaulting or intimidating by threats or otherwise the employees of said complainant, or any person who may become or seek to become employees of or to deal with said complainant.

From congregating about or near the place of business of your said complainants, or about or near any place where its employees reside, are lodged, or boarded, for the purpose of compelling, or inducing the employees of said complainant by threat or coercion to leave its service or to refuse to work for it, or for the purpose of preventing or attempting to prevent any person from freely entering into service of said complainant.

From interfering with or attempting to hinder complainant in carrying on its business in the usual and ordinary way.

From following the employees of said complainant to their homes or other places, or calling upon them for the purpose of inducing by intimidation, threats, or coercion, to leave the employ of said complainant, or of molesting or intimidating them or their families.

From attempting by bribery, payment or promise of money, offers or transportation, or other rewards to induce the employees of said complainant to leave their service.

From attempting to prevent, by threats of injury or by threats of calling strikes, any person from accepting work from or doing work for said complainant.

And from doing any other act or thing in furtherance of the conspiracy set forth in said bill; upon the complainant filing with the clerk of this court a bond in the penal sum of $5,000, with sureties to be approved by this court, and conditioned that the complainant will pay or cause to be paid to the said defendants, or any or either of them, by reason of the wrongful issuing of such injunction, and also all costs and damages as shall be awarded against the said complainant in case the said injunction shall be dissolved.

Done in open court this —— day of ——, A. D. 1909.

———— ————,
Judge, etc.

In the Chancery Court of Davidson County, Tenn.

Phillips & Buttorff Manufacturing Co. *v.* Nick Smith, Jim W. Burton, John Lee, and others.

This cause came on to be heard before the Hon. John Allison, chancellor, etc., on this the 10th day of June, 1912, upon complainant's motion for a preliminary temporary injunction upon the face of complainant's bill; and in advance of answer by any of the defendants, the court, upon complainant executing bond in the sum of $250, doth order, adjudge, and decree as follows:

1. That an injunction issue, enjoining the defendants named in the bill, together with their agents, servants, representatives, confederates, and attorneys from in any manner interfering with employees in the service of the complainant in its foundry at Nashville, Tenn., or elsewhere, and from in any manner interfering with any person who may desire to enter into the employ of complainant, by way of threats, personal violence, intimidation, coercion, or other similar means calculated or intended to prevent such persons entering or continuing in the employment of complainant, or calculated or intended to induce such person or persons to leave the complainant's employment, and also enjoining said defendants, their agents, servants, representatives, confederates, and attorneys from trespassing on complainant's buildings and property situated in the city of Nashville, Tenn., as follows: Bounded by Twelfth Avenue north on the east; by Hamilton Street on the north; by Fourteenth Avenue north on the west; and by the property of the Louisville & Nashville Terminal Co. on the south; and also enjoining said defendants, their agents, servants, representatives, confederates, and attorneys from congregating on or loitering about the premises above described, or at other places with intention or for the purpose of interfering with employees of complainant in the prosecution of their work, or to intimidate with intention to cause them to leave complainant's employment; and also enjoining said defendants, their agents, servants, representatives, confederates, and attorneys from interfering with the free ingress and egress of the complainant's said employees to and from said place of business of complainant above described, and with their free return to their homes to and from their work.

And in view of the assurance of a number of the defendants that they have not had, and have not now, any purpose to conduct themselves in an abusive, threatening, or intimidating manner, this injunction, until further order of the court, shall not be construed to prevent defendants from stationing themselves or others around or in the vicinity of complainant's shop, foundry, and premises for the purpose of peaceably and orderly observing those entering or leaving said premises, obtaining their names and residences, and in a peaceable and orderly manner, and without intimidation, accosting and speaking with those so entering and leaving said premises upon said occasions, and at any other time or place, and by peaceful persuasion endeavor to induce such persons to attach themselves to the cause of organized labor and to decline to work for complainant until the adjustment of the pending strike and become members of the local molders' union; provided further, it is not intended by any part of this injunction to limit or embarrass the right of either or any of the parties to this suit to seek or invoke the application and enforcement of any statute or city ordinance which may be violated by any person or persons whomsoever; and the right is reserved to any of the parties to this suit to hereafter move to have modified, broadened, or restricted the scope and language of this injunction.

In the Chancery Court of Davidson County, Tenn. No. 28163. Phillips & Buttorff Manufacturing Co. *v.* Nick Smith, Jim W. Burton, John Lee, and others.

INJUNCTION.

To Nick Smith, a nonresident but now in Davidson County, Jim W. Burton, John Lee, Lee Wynns, Arthur Lockhart, H. L. Campbell, Jessie Ballinger, Henry Rohlman, Lee Jackson, Thomas Ritchards, Lester F. Hunter, Hugh E. Biggs, Joe Clifton, Algie C. Holman, Fred Huffaker, Houston James, T. E. Palmore, J. William Starkey, Ben C. Nellums, Tony Sandlin, Chris Baker, Attie C. Holman, T. J. Miller, H. Clay Odum, Bernie Arnold, Emerson E. Biggs, S. Ed Bogart, Baxter Berryhill, John W. Worke, G. W. Acklin, G. W. Allen, S. E. Baxter, W. W. Baxter, Clar Biggs, J. J. Blackburn, O. C. Boone, Robert Cato, James Conners, John Conners, Andy Calvin, Otho Cooper, R. E. L. Carter, E. A. Cone, Rice Cone, D. J. Dowd, Mike Dohoney, I. M. Dunagan, Fred Dooley, J. M. Griggs, C. C. Green, Ed Heller, jr., A. J. Hearan, W. P. Hunter, A. W. Hossee, R. J. House, M. C. Johnson, Charlie L. Lee, Homer Massey, Odell Massey, L. P. McWhorter, W. T. Parr, J. D. Parrish, Dan Parrish, Benton Petty, W. T. Potts, Jake Ruch, Dan Simpson, J. A. Starkey, Dennis Sullivan, J. M. Sadler, O. J. Towles, Lewis Thompson, Jeff Van Bibber, I. L. Vick, C. E. Walker, Horace Williamson, Y. L. Woodard, J. S. Word, W. H. Allen, Bruce Cooper, Floyd Clement, J. H. Gatlin, H. Mason Hearan, Joe Lawrence, Clar. E. Marshall, H. E. McCool, Jessie Penninger, Ed Pridy, Walter Pridy, Milton Roach, Andy Stewart, Dan Schild, John Sullivan, Thomas Sinor, Martin Webb, Ollie Wills, John Webster, Lee Lockhart, Newton Lockhart, Lafayette Lockhart, Hugh Hunter, Arthur Edgar, Frank Burton, A. L. Hutchins, Jessee Pettit, J. H. Thomas, George Markham, W. C. Parsons, Tom Holland, Charles Lovell, John G. Stoner, Harvey Worke, William Victry, P. B. Collins, Charles McWhorter, William M. Tittle, Levy Montgomery, Charles McGehee, G. C. Miles, John Bachman, Ernest Biggs, Walter J. Bunch, H. O. Hueland, William Fehrman, Ollie Fehrman, Arthur Fehrman, Joe Emerson, Clarence Thomas, Virgil Roberts, Nick Peterson, John Marcus, E. P. Proctor, Carlie Choate, Albert Reid, Arthur Walker, Hume Walker, A. J. Forde, John McDermitt, William Regg, Ed Smith, John Edwards, Jesse Darrow, John Wise, Tony Boyd, Herschell Babb, Jesse Todd, Robert McAbee, H. M. Burklin, John Byrd, Murray Todd, Clarence McWhirter, H. T. Dillard, Wash Simpson, and to your agent, servants, representatives, confederates, and attorneys and each and every one of them, greeting:

Whereas in a certain suit instituted in our court of chancery at Nashville, by Phillips & Buttorff Manufacturing Co., complainant, against Nick Smith et al., defendants, the complainants having obtained from Hon. John Allison, chancellor, a fiat for a writ of injunction to issue to enjoin you, and each of you, together with your agents, servants, representatives, confederates, and attorneys from in any manner interfering with employees in the service of the complainant in its foundry at Nashville, Tenn., or elsewhere, and from in any manner interfering with any person who may desire to enter into the employ of complainant, by way of threats, personal violence, intimidation, coercion, or other similar means calculated or intended to prevent such persons entering or continuing in the employment of complainant, or calculated or intended to induce such person or persons to leave the complainant's employment; and also enjoining you, your agents, servants, representatives, confederates, and attorneys from trespassing on complainant's buildings and property situated in the city of Nashville, Tenn., as follows:

Bounded by Twelfth Avenue north on the east, by Hamilton Street on the north, by Fourteenth Avenue north on the west, and by the property of the Louisville & Nashville Terminal Co. on the south.

And also enjoining you, your agents, servants, representatives, confederates, and attorneys from congregating on or loitering about the premises above described, or at other places with intention or for the purpose of interfering with employees of complainant in the prosecution of their work, or to intimidate with intention to cause them to leave complainant's employment; and also enjoining you, your agents, servants, representatives, confederates, and attorneys from interfering with the free ingress and egress of the complainant's said employees to and from said place of business of complainant above described, and with their free return to their homes to and from their work.

And in view of the assurance of a number of the defendants that they have not had and have not now any purpose to conduct themselves in an abusive, threatening, or intimidating manner, this injunction, until further order of the court, shall not be construed to prevent you from stationing yourselves or others around or in the vicinity of

complainant's shop, foundry, and premises for the purpose of peaceably and orderly observing those entering or leaving said premises, obtaining their names and residences, and in a peaceable and orderly manner, and without intimidation, accosting and speaking with those so entering and leaving said premises upon said occasions, and at any other time or place, and by peaceful persuasion endeavor to induce such persons to attach themselves to the cause of organized labor, and to decline to work for complainant until the adjustment of the pending strike, and become members of the local Molder's union; provided further, it is not intended by any part of this injunction to limit or embarrass the right of either of any of the parties to this suit to seek or invoke the application and enforcement of any statute or city ordinance which may be violated by any person or persons whomsoever; and the right is reserved to any of the parties to this suit to hereafter move to have modified, broadened, or restricted the scope and language of this injunction; and complainant having executed the bond required by the said fiat,

We, therefore, in consideration of the premises aforesaid, do strictly enjoin and command you, your agents, servants, representatives, confederates, and attorneys, under the penalty prescribed by law, of your and every of your goods, lands, and tenements to be levied to our use, that you and every of you do absolutely desist from doing the things above prohibited until further orders of our said court of chancery.

Witness, Robert Vaughn, clerk and master of our said court, at office, the first Monday in April, in the year of our Lord 1912, and in the one hundred and thirty-sixth year of our independence.

ROBERT VAUGHN, *Clerk and Master*,
By J. R. WEST, *Deputy Clerk and Master*.

General, No. 24430.

Horace F. Humphrey, surviving member of the firm of Humphrey & Sons, *v.* William Boyd, William Cleghorn, John Doyle, Mathew Gahan, Bert Collins, Austin McGowan, Edward Nesser, John Kempke, Joseph Hirsch, and Joseph Frieh.

And now, on this 25th day of April, A. D. 1911, comes the complainant, by his solicitors, and the defendants also come by their solicitors, and this cause coming on for determination, the same having been previously heard and taken under advisement, upon the bill of complaint herein, the answer of the defendants thereto, the replication of the complainant to such answer, and the proofs, oral, documentary, and written, taken and filed in said cause, as well as the arguments of counsel for the respective parties, and the court being now fully advised in the premises, finds from the evidence that it has jurisdiction over the subject matter and over the person of each and every of the defendants hereto; that the complainant is the surviving member of the copartnership formerly consisting of the complainant, Horace F. Humphrey, and one Harry B. Humphrey, doing business as Humphrey & Sons, and that since the filing of the bill of complaint herein the said Harry B. Humphrey has departed this life; that the said copartnership of Humphrey & Sons has for more than 25 years last past been engaged in the business of machinists and founders in the city of Joliet, in the county and State aforesaid, and that said business has been in existence and carried on in said city for more than 50 years prior to the filing of said bill of complaint, and that said business is still being conducted by the said complainant, Horace F. Humphrey, as surviving partner, as aforesaid; that in the conduct of said business said copartnership and said complainant, as surviving partner thereof, have a valuable and thoroughly equipped foundry and plant, necessary for the conduct of said business, and that said business amounts to upward of $150,000 each year, and that in the conduct of said business large numbers of contracts are made for machinery in all portions of the United States and in many foreign countries, and that the products of the plant of said business are shipped to all parts of the United States and such foreign countries; that such contracts are made for future delivery, and that at the time of the filing of the bill of complaint herein said copartnership had on hand a large number of such contracts providing for delivery thereafter; that in order to successfully prosecute said business it is essential that said foundry, plant, and business be operated substantially without interruption, and that the several departments of said business are necessarily so connected and related to each other that the operation of each department is essential to the completion of the contracts and work entered into and undertaken in the proper conduct of said business; that in the proper conduct of said business the complainant is compelled to employ a large number of workmen, aggregating 125 or thereabouts, many of whom are skilled mechanics, who become more valuable to the complainant the longer such skilled workmen continue in complainant's employ, and that prior to the 2d day of May,

A. D. 1910, complainant had in his employ about 125 workmen, or thereabouts, and skilled mechanics, many of whom had been in such employ continuously for considerable periods of time, and who in consequence had become valuable to said copartnership in the conduct of said business, and that sundry of the defendants hereto were among the persons then in the employ of said copartnership.

The court further finds that the defendants are members of the International Molders' Union of North America and of the International Molders' Union of North America, Local No. 236, both of which unions are commonly called labor or trade unions, and that said defendants are all residents of the city of Joliet, in the county and State aforesaid; that said International Molders' Union of North America is a voluntary, unincorporated association and has a branch located in the said city of Joliet, known as said Local No. 236, and has associated with it throughout the United States several thousands of members who are molders or core makers by occupation, and that said Local No. 236 has a membership of 50 or more, and is affiliated with other labor unions in the said city of Joliet; that said International Molders' Union of North America, and said branch thereof, now have in force certain by-laws, rules, and regulations to govern and control the members of said union as to their hours of labor, wages, shop conditions, and the persons with whom the members thereof may and may not work, and in the event of failure on part of the employers, including said copartnership and the complainant, to accede to the demands of said union said union causes its members in the employ of such employers to strike and refuse to work, and sustains its members in such strike by contributing moneys to aid said strike and directing the manner and method pursued by such members in their attempt to make said strike effective; that the complainant in the usual and proper conduct of said business employs a large number of men in his molding department and also in his several other departments; that on the 2d day of May, A. D. 1910, said international union and said Local No. 236, and the officers and the members thereof, declared and inaugurated a strike against said complainant's said firm for the purpose of enforcing certain demands of said union, and thereupon refused to allow any of the members of said Local No. 236 to continue to work for said firm; that at that time said firm employed as molders and core makers 14 men, among whom were some of the defendants; that all of said 14 men were then members of said Local No. 236, and that as a consequence of such refusal to allow said employees to work said employees thereupon struck and left the employ of said firm, and that the business of said firm was thereupon seriously affected and injured.

The court further finds that immediately upon the inauguration of said strike, the defendants instituted and afterwards maintained what is commonly called a picket system in the immediate neighborhood of complainant's place of business; that said picket system was instituted and maintained for the purpose of watching and spying upon the employees of complainant's said firm in going to and from their work, in order to be able to identify and follow such employees to and from their work, and that such acts and doings on the part of the defendants have caused and threaten to cause serious loss and damage to complainant, and that by reason thereof, the business of said firm has been carried on only in a partial and incomplete manner.

The court further finds that the defendants and other persons associated with them in the maintenance of said picket system have repeatedly followed employees of complainant's said firm to and from their homes and have congregated in the neighborhood where said employees lodge or live, for the purpose of threatening, intimidating, or otherwise interfering with and annoying the employees of complainant's said firm, and that by means of said picketing and unlawful acts, about 65 of the workmen of complainant's said firm have been induced to quit the employ of said firm, and that such acts and doings on the part of the defendants, and those conspiring, cooperating, and sympathizing with them, have caused irreparable loss and injury to the business of said firm and of said complainant, and that by means of such wrongful acts and doings said defendants and those cooperating with them, seek and attempt to stop the business of said complainant for the purpose of compelling the complainant to accede to the demands of said defendants and their said union.

The court further finds from the evidence that said defendants are financially irresponsible and unable to respond in damages, and that such wrongful acts have, and will, result in great and irreparable loss and damage to the complainant, and that such damages can not be ascertained or measured, and that complainant has no adequate remedy at law for the protection of said business and interests.

The court further finds from the evidence that none of the defendants is in the employ of, or has any contractual relation whatsoever with the complainant or his said firm.

The court further finds from the evidence that the complainant will be irreparably injured, unless the defendants be perpetually enjoined, as hereinafter provided and decreed.

Now, therefore, the premises considered, it is ordered, adjudged, and decreed, and the court doth hereby order, adjudge, and decree, that the temporary restraining order heretofore made in this suit be modified so as to read and be as follows and that the defendants, William Boyd, William Cleghorn, John Doyle, Mathew Gahan, Bert Collins, Austin McGowan, Edward Nesser, John Kempke, Joseph Hirsch, and Joseph Frich, and each of them, and all persons assisting or aiding or sympathizing or confederating with them, be, and they are hereby, perpetually enjoined and restrained as follows: From picketing or maintaining a picket about or in the neighborhood of the business of the complainant; from in any manner, by force, threats or intimidation, interfering with, hindering, obstructing, or stopping the business of said complainant, or his agents, servants, or employees, in the operation of complainant's business; from intimidating by threats or otherwise the employees of complainant, or any person or persons, who may become, or seek to become employees of complainant; from congregating about or near the place of business of complainant, or about or near any place where his employees are lodged or live, for the purpose of compelling or inducing, by threats or intimidation or force, complainant's employees to leave the employment of complainant or to refuse to work for him, or for the purpose of preventing or attempting to prevent, by force, threats, or intimidation, any person from freely entering into the employment of complainant; from following, singly or collectively, any employee of said complainant to or from his home, or elsewhere, or calling upon him for the purpose of molesting, intimidating, or annoying such employee or his family.

And it is further ordered, adjudged, and decreed that the defendants pay to the complainant the costs of this suit to be taxed and that the complainant have execution against the defendants therefor.

EXHIBIT H.

1. H. N. Strait Manufacturing Co. *v.* Iron Molders' Union No. 162 et al. (Circuit Court of the United States for the District of Kansas, First Division.)
2. Armourdale Foundry Co. *v.* Iron Molders' Union No. 162 et al. (Circuit Court of the United States for the District of Kansas, First Division.)
3. Riverside Iron Works Co. *v.* Iron Molders' Union No. 162 et al. (Circuit Court of the United States for the District of Kansas, First Division.)
4. Rock Island Plow Co. *v.* Iron Molders' Union No. 230 et al. (Circuit Court of the Fourteenth Judicial Circuit of Illinois.)
5. Chicago Ornamental Iron Co. *v.* Iron Molders' Union No. 233 et al. (Superior Court of Cook County, Chicago, Ill.)
6. Phillips & Buttorff Manufacturing Co. *v.* Nick Smith et al. (Chancery Court of Davidson County, Nashville, Tenn.)
7. Aluminum Castings Co. *v.* International Molders' Union of North America, Clarence Krieger, et al. (District Court of the United States for the Eastern District of Michigan, Southern Division.)
8. Great Lakes Engineering Works *v.* Frank Condin et al. (Circuit Court for the County of Wayne, Mich.)
9. Murphy Iron Works *v.* Iron Molders' Union et al. (Circuit Court of the County of Wayne in Chancery, Michigan.)
10. American Blower Co. *v.* Timothy Malone et al. (Circuit Court for the County of Wayne in Chancery, Michigan.)
11. Berry Foundry & Manufacturing Co. *v.* International Molders' Union et al. (Circuit Court No. 19987, Missouri.)
12. Pittsburgh Steel Foundry *v.* T. B. Kennedy et al. (Court of Common Pleas, No. 2, Allegheny County, Pa.)
13. American Woodworking Machinery Co. *v.* William McKee et al. (Supreme Court, Monroe County, N. Y.)
14. The Bucyrus Co. *v.* Iron Molders' Union No. 125 et al. (Circuit Court, Milwaukee County, Milwaukee, Wis.)
15. International Heater Co. *v.* Charles E. Weaver et al. (Supreme Court, Oneida County, N. Y.)
16. The United Iron Works Co. *v.* E. Shuman et al. (District Court of Allen County, Kans.)
17. The Victor Knecht Co. *v.* The Iron Molders' Union et al. (Superior Court of the City of Cincinnati.)
18. Niles-Bement-Pond Co. *v.* Iron Molders' Union et al. (United States Circuit Court, Eastern District of Pennsylvania.)

19. Allis-Chalmers Co. *v.* Iron Molders' Union et al. (United States Circuit Court of Appeals for the Seventh Circuit.)
20. Newport Iron & Brass Foundry Co. *v.* Iron Molders' Union, Joseph F. Valentine, et al. (United States Circuit Court, Southern District of Ohio.)
21. I. & E. Greenwald Co. *v.* Iron Molders' Union of North America et al. (Superior Court of the City of Cincinnati.)
22. State of Ohio *v.* Fred L. Rauhausen et al. (Court of Common Pleas, Hamilton County, Ohio.)
23. American Lubricator Co. *v.* Metal Polishers, Buffers & Platers' International Union of North America, Local No. 1, Louis Kronke, Otto Gersabeck, et al. (The Circuit Court for the County of Wayne in Chancery, Michigan.)
24. Buffalo Foundry Co. *v.* Frank Wolfe, president Iron Molders' Union No. 84 et al. (Supreme Court, Erie County, N. Y.)
25. John Brennan & Co. *v.* Brotherhood of Boiler Makers & Iron Shipbuilders of America. (Circuit Court for the County of Wayne in Chancery, Michigan.)
26. The National Brake & Electric Co. *v.* Iron Molders' Union No. 125 et al. (Circuit Court, Milwaukee County, Milwaukee.)
27. Jeffery Manufacturing Co. *v.* Iron Molders' Union et al. (Court of Common Pleas, Ohio.)
28. The Moran Co. *v.* Iron Molders' Union, Local 158, et al. (Superior Court of the State of Washington for King County.)
29. Holton & Weatherwax Co. *v.* Iron Molders' Union, Local 449. (Circuit Court for the County of Jackson in Chancery, Michigan.)
30. Livermore Foundry & Machinery Co. *v.* Iron Molders' Union No. 66 et al. (Chancery Court, Shelby County, Tenn.)
31. Ross-Meehan Foundry Co. *v.* Nick Smith et al. (Chancery Court at Chattanooga, Hamilton County, Tenn.)
32. The Canton-Hughes Pump Co. *v.* Louis Fabel et al. (Court of Common Pleas, Stark County, Ohio.)
33. United States Sanitary Manufacturing Co. *v.* International Iron Molders' Union No. 327. (Court of Common Pleas, Beaver County, sitting in equity, Monaca, Pa.)
34. Humphrey & Sons *v.* William Boyd et al. Bates Machinery Co. *v.* William Hughes et al. (Circuit Court for the County of Will, Ill.)
35. The M. L. Oberdorfer Co. *v.* Philip Ott et al. (Supreme Court, Onandago County, N. Y.)
36. Vitler Manufacturing Co. *v.* A. C. Humphrey et al. (Supreme Court State of Wisconsin.)
37. New York Central Iron Works Co. *v.* Michael M. Brennan et al. (Supreme Court, County of Ontario, Seneca Falls, N. Y.)

The CHAIRMAN. We shall be glad now to hear somebody who is in favor of the bill. Mr. Gompers, do you wish to be heard now?

Mr. GOMPERS. I would like to hear what the opposition has to say first, Senator.

Mr. MONAGHAN. I think the representatives of labor should give us an opportunity to answer in defense, since they are the real proponents.

The CHAIRMAN. I can not determine that now. I presume an ample hearing will be given everybody.

Mr. GOMPERS. We have appeared many years before the committees of the House and on one or two occasions before committees of the Senate on measures of this character. Hearings were held, they are in print, and there is not anything, perhaps, that we could say that has not already been said in some form or another. I doubt if there is anything that one can say against the bill that has not been said in some form or other, except possibly by heaping on abuses and villification. The first does not constitute much of a strong argument, but after you have heard all of the opponents of the bill, if the proponents deem it at all necessary, with your consent, we shall offer something.

The CHAIRMAN. I may be wrong, but my impression is, I remember some years ago we had an injunction bill, but I have no recollection of having a bill before us that goes to the extent that this bill does?

Mr. GOMPERS. Yes, sir; the bills that were before the Judiciary Committee of the Senate went further than the present bill which has already passed the House.

The CHAIRMAN. This bill goes in one respect further than that bill went, in legalizing what I call boycotting. Here is one phrase I have no recollection of seeing in former bills, but I may be mistaken, so I will state my own memory. The section I refer to is:

> And no such restraining order shall prohibit any person or persons * * * from ceasing to patronize or to employ any party to such dispute.

That is what we commonly call the boycott and I have no recollection of any such provision as that in any former bill.

Mr. GOMPERS. Not in the same language perhaps, but the old Pearre bill introduced by Representative Pearre of Maryland contained, if not the exact language, the exact purpose. I shall be glad to furnish a copy of the Pearre bill.

The CHAIRMAN. I should like to hear particularly the discussion of what I call section 266–A from your side of the case before we get through. I should like to hear that discussion very much for my own information. I have no fixed notions on this, but I would like to hear your side as well as the other.

Senator SUTHERLAND. I would like to say for myself I have never been present upon any of the occasions when this or similar bills have been discussed, and I have not had the time to read any of the hearings upon the subject, not even the House hearings or the report made by the majority and minority of the House on the bill.

Mr. DAVENPORT. There was no hearing on this bill before the House nor any bill similar to this?

Senator SUTHERLAND. It is a matter the details of which I have not heard discussed, and I would myself like very much to hear from the proponents of the measure some discussion of it. There are two or three things in it that I am particularly anxious to hear about, and I want to hear it discussed with reference to the use of this word "entry," that the time shall expire within a certain number of days after the "entry" of the order. I want to know why that is in there, and I want to know what the particular complaint is which organized labor or labor in general is making about the present administration of the law. I want to know something about it, and I would like to hear from you.

Mr. GOMPERS. I shall be heard if the committee thinks that necessary—if you think we should appear in favor of it. I desire to say with regard to the present bill that there were several bills which were introduced in the House of Representatives to regulate and limit the issuance of injunctions and out of the long hearings of the past Congresses and the present Congress the Judiciary Committee formulated that bill, and it passed the House, I think, by a vote of 244 to 31, after five hours of discussion.

The CHAIRMAN. We will now hear from Mr. Drew.

STATEMENT OF MR. WALTER DREW.

Mr. DREW. Mr. Chairman, I am counsel for the National Erectors' Association. The members of our association erect structural iron and steel. Like Mr. Monaghan, my colleague, who has just finished speaking, I am the representive of an organization of employers which has had to fight for the privilege of doing business in this country.

The CHAIRMAN. How many individual members are concerned?

Mr. DREW. We have about 40 members in our association, and I think they probably fabricate and erect about 75 per cent of the structural steel and iron in this country.

The CHAIRMAN. Are you all combined?

Mr. DREW. We are combined in the name of the National Erectors' Association for the one and only purpose of erecting iron and steel construction work on an open-shop basis.

The CHAIRMAN. There is no combination as to price or output?

Mr. DREW. If you knew something about the prices in the steel industry erecting business just now, you would not ask that. If it is desired, I would be glad to file our constitution and by-laws.

The CHAIRMAN. I am just a plain farmer and country lawyer and that is the reason I asked the question.

Mr. DREW. I see the committee rightly agrees with me that the burden of showing the necessity of legislation of this kind, so far-reaching and so important in industrial matters in this country, rests upon the men who propose it. I have known something of the bills of this character that have been proposed previously to this time. My first experience in national labor matters was when I stood before the House Judiciary Committee, something like six years ago, and heard Mr. Gompers address that committee in favor of the so-called Pearre bill. That committee did not report out the bill, and Mr. Gompers at that time informed the House Judiciary Committee that if that Congress did not see fit to pass that sort of legislation there would be other Congresses that could perhaps see more clearly the rights of the laboring men as he chose to interpret them. I have heard Mr. Gompers discuss legislation of this character a number of times, and I never yet have heard him discuss it without a veiled threat or menace of some kind behind his remarks. His attitude in that particular, standing even in the halls of our national legislative body, has been absolutely typical of the spirit and policy of his whole organization, the American Federation of Labor, under his leadership, always the use of force, coercion, intimidation, and threat to overcome the will of the men with whom it sought to do business, substituting that intimidation, that force, and coercion in place of merit and efficiency on the part of the individual members. It has become a stock phrase of militant closed-shop unionism to-day that if the organization is strong enough it does not matter about the efficiency of the individual workman.

The CHAIRMAN. You have organized on your side, and of course you do not deny the other side the right to organize too?

Mr. DREW. If the Senator please, that is the one thing I will tell this committee about to-day. I am going to give you in detail the

relations between the International Association of Bridge and Structural Iron Workers and the National Erectors' Association, leading up to the arrest of the McNamaras, their confession in Los Angeles, and leading further to the indictment of 54 men at Indianapolis, including all but one of the members of their international executive board. I will do that, and I deem it pertinent to this discussion for this reason: The International Association of Bridge and Structural Iron Workers stands here to-day asking for this legislation. That association, notwithstanding the confession of the McNamaras, notwithstanding the publicity given to these dynamite outrages, notwithstanding the indictment of 54 men at Indianapolis, is still a member of the American Federation of Labor and speaks to-day through its mouthpiece, Samuel Gompers, to this committee, asking for this legislation. So, gentlemen, I deem one of the most important factors in this discussion to be the character of the men you are going to give this law to, if it be passed. What use would they make of it if they had it? Will they, as suggested, treat it with reverence as an addition to the sacred rights of labor, or will they treat it as a license to follow along the already established principle and practice of coercion and intimidation with the sanction and encouragement of a National Congress to add to the bitterness and hate of their malcontents in their campaign of class against class?

It may be news to this committee that previous to January 1, 1906, the business of erecting structural steel and iron in this country was upon a closed-shop basis. Trade agreements were practically universal between the large erecting companies and the iron workers.

The CHAIRMAN. How did they get apart?

Mr. DREW. I am just going to tell you, and I am going to read from the Bridgemen's Magazine, which is the official organ of the Iron Workers' Union, and also one of the official organs of the American Federation of Labor.

Mr. GOMPERS. I do not think you want to make a willful misstatement, Mr. Drew.

Mr. DREW. No, I do not; and I will be glad to have you correct me if I do.

Mr. GOMPERS. Where do you get the information that the Bridgemen's Magazine is an official organ of the American Federation of Labor?

Mr. DREW. Not directly, perhaps, but the Iron Workers' Union is one of the largest and most important members of the American Federation of Labor. The Bridgemen's Magazine is the official organ of that union, and it contains official notices from your office and has a department in it dealing with A. F. of L. notices.

Mr. GOMPERS. Does that constitute it an official organ of the American Federation of Labor?

Mr. DREW. It is the official organ of the Iron Workers' Union, and in its relations to the American Federation of Labor it is their official organ in that respect. I ask you if you want to repudiate the Bridgemen's Magazine?

Mr. GOMPERS. No, I do not wish to repudiate that nor the organization, but you said it was the official organ of the American Federation of Labor.

Mr. DREW. I will qualify that with the explanation I have made. Here is a statement from the editorial column of the Bridgemen's Magazine, in the issue of August, 1905.

Local Union No. 15, of New Haven, Conn., has inaugurated a strike against the American Bridge Co., owing to the fact that the company persists in allowing the Boston Bridge Co. to erect work for which they (the American) are the original contractor. Up to the time of going to press no settlement satisfactory to No. 15 has been reached and there is a possibility of a general strike being ordered. It is to be hoped that the matter will be adjusted amicably, but if such is not the case we know our members stand ready and willing to assist their New Haven brothers.

There was no question of wages, no question of hours. The agreement between the American Bridge Co. and this local union, as with all other locals, contined an arbitration clause providing that no strike should be called until arbitration was had. Yet, because the American Bridge Co. would not cancel a contract which it had already made for the erection of steel with the Boston Bridge Co., its work was struck.

The CHAIRMAN. Who was the grievance against, the Boston Bridge Co.?

Mr. DREW. It happened at that particular time to be out of favor with the local at New Haven, Conn. The national convention of the Iron Workers' Union was to be held the next month. At that convention the strike of the American Bridge Co. was made general all over the United States, which meant that every one of the 100 odd locals of the Iron Workers' Union went on a strike against the American Bridge Co. to compel it to cancel a contract with the Boston Bridge Works. That strike has never been called off to this day, and is still in force.

This is from the October, 1905, issue of the magazine:

The action of the convention in indorsing the strike against the American Bridge Co. by a unaminous vote and deciding to continue the same more aggressively than ever was indeed a sorry blow to a few of the tools and soreheads in our organization, as they are now without any support whatever.

Following the strike against the American Bridge Co. comes the general open-shop fight of the other erecting concerns. The relations between the erecting concerns and the unions had become intolerable, so on May 1, 1906, the different erecting concerns allied themselves together under the name of the National Erectors' Association and declared that they would conduct their business upon what is called the open-shop basis; that is, they would hire men irrespective of their membership in any organization, union men and nonunion men equally entitled to work without discrimination.

The CHAIRMAN. Did they discriminate against union men as against nonunion men?

Mr. DREW. I will read what the Bridgemen's Magazine says upon that point. I am going to take the closed-shop definition of the iron workers themselves, from the editorial columns of the Bridgemen's Magazine. This is from the December, 1905, issue:

"Closed shop," then, is the term for a shop, factory, store, or other industrial place where workmen can not obtain employment without being members in good standing of the labor union of their trade. This is demanded by the unions. Objecting to working in cooperation with scabs, rats, strike breakers, or other nonunion workmen, they insist that the shop shall be closed against all employees who, not already belonging to the union of their trade, refuse to join it.

The CHAIRMAN. What does that mean, "rats," etc.?

Mr. DREW. Those are terms for nonunion workmen [continuing]:

If the union is able to coerce the employer, or he is friendly enough to yield without coercion, this demand is granted, and that establishment is consequently a "closed shop." But, if the employer will not yield without coercion, and the union is unable to coerce him, then nonunionists as well as unionists may obtain employment and the establishment is consequently known as an open shop. No term has come into vogue or establishments which exclude unionists from employment. The reason probably is that no employers make this exclusion.

Passing on further as to what was the real issue in this case, we find it was not wages or hours, but the desire of this union to maintain a "closed shop" in the erection industry of the country. This is a statement from the editorial columns of the January, 1906, issue:

To such members we hereby serve notice that we have never, neither do we now recognize the open-shop policy, and the mere fact of any member being found working either as a journeyman, pusher, or foreman on any such work for any company, will be deemed sufficient cause for steps being taken to discipline said member, either by fine or revocation of membership.

In the issue of the magazine of May, 1906, soon after the declaration of our open-shop policy, occurs the following:

No matter what may have been the fancy of the erectors along this particular line, their idol has been quickly shattered and they have been brought to realize in no uncertain terms that to figure a proposition out among themselves is one thing to figure it out with the employee is another. Fancy unions and nonunion structural iron workers working side by side in perfect harmony on a bridge or building of any consequence any place in this broad land. This is the dream of the Erectors' Association, but we advise them to wake up if the action of our local unions has not already caused them to do so.

So I submit the issue between the international association and the employers in the structural iron and steel industry is clearly defined as one of closed shop absolutely, no question of wages or hours being involved at that time, nor has it been involved from that time to this day. I might say in passing that our people placed their business upon an open shop basis, and have maintained it there for the last six years. They have not decreased wages, they have not lengthened their hours. On the contrary, there has been a general increase in wages, and I have a comparative statement showing the wages of structural iron workers to day paid by our people to be substantially higher than the wages paid skilled carpenters throughout the country from the Atlantic to the Pacific.

The CHAIRMAN. What is the average rate paid?

Mr. DREW. From $4 to $5 per day.

The CHAIRMAN. A day of eight hours?

Mr. DREW. Eight hours and double pay for overtime.

The CHAIRMAN. With every Saturday afternoon off?

Mr. DREW. That is, overtime if they work Saturday afternoon. I might say further to the Senator, coming down to the economic proposition which will perhaps stick in his mind after all is said and done in connection with legal rights, that we have been able to pay the old union wages and increase them; we have been able to work the old hours and maintain them; and we have been able to pay for guarding practically every open-shop job that has gone up in the last five years to protect it against dynamite——

The CHAIRMAN. Have you had to have guards around your jobs?

Mr. DREW. Practically every one of our jobs has gone up like a fort under siege in time of war.

The CHAIRMAN. During this time have no union men worked for you, or offered to work for you?

Mr. DREW. A large percentage of our men are old union men who have left the union and who are glad to work for us and want to continue to work for us. I might say we have been able to do all these things, and to pay the cost of 100 dynamitings, and still we can erect steel and sell it to the final consumer at from 20 to 30 per cent less than we could under the old closed-shop conditions. This is chiefly due to the removal of union restrictions upon the efficiency of the men.

The CHAIRMAN. I would like to have you give the experience of your association in reference to the dynamiting, if you would kindly do so. I want to have it stated here, if possible.

Mr. DREW. About six months after January 1, 1906, we had put our industry upon practically a normal basis—that is, enough new men had been trained and enough old men had left the union, so that we had a good labor market. That period had been characterized by a large number of brutal and vicious assaults both upon our workmen and upon our foremen. As a result of those assaults, there are quite a number of the members of this union who have been prosecuted, convicted, and have served time or are serving time now throughout the country. Several are fugitives from justice. If the committee wants a record of those cases I will be glad to furnish it.

The CHAIRMAN. We would be glad to have you furnish it.

Mr. DREW. This is an editorial in the issue of November, 1907, after this fight had gone on for some time and before dynamiting had occurred to any great extent.

To those foremen who have been loyal to us we feel safe in saying that they have lost nothing. In fact, if experience is any criterion to go by, they have been the gainers. If they have suffered a temporary financial loss, it is as nothing compared to the honor, respect, and esteem in which they are generally held by the members of the international association.

Aside from the above, they are still among the living and are, in a great many instances, holding positions with fair firms that are as good and in some instances better than they left with the American Bridge Co. and the open-shop fanatics of the Erectors' Association. The same can not be said of the poor misguided fools who listened to the soft words of the employer about two years ago. Their paths as foremen have not been strewn with roses. More than one of them has admitted time and time again that he knew in his heart he was not doing right; that the men he had were incompetent, and in a majority of cases would always remain that way, and that their most ardent desire was that the present controversy would be adjusted in the very near future. To the foremen who have worked scabs in the present contest and are still alive it can be safely said that they, by their action in listening to the blandishments of the company, have been largely instrumental in defeating the very proposition that they are so anxious to see brought about, and in this respect they are, if sincere, simply working against their own interests.

This editorial gains meaning and takes on the character of a sinister and deadly threat when read in conjunction with the many vicious and brutal assaults committed upon open-shop foremen. To be sure, the editorial later assigns the incompetence of scab workmen as one of the sources of danger to the foremen. But no accidents to foremen, caused by the incompetence of nonunion men, were available for mention to bear out this ingenious explanation, nor were they desired. To the foremen and to the rank and file of the workmen, both union and nonunion, the article plainly refers to the many brutal attacks which had already occurred and were of common knowledge, and by implication promises similar persuasive methods for the future.

To the picket line and personal violence were added the boycott. Many of the large national concerns were put upon the "unfair list" of the union, and so published in the magazine. They are still upon that list. In many localities sympathetic strikes and boycotts against those concerns and other open-shop erecting contractors were instigated by the iron workers' union and participated in by other unions in the building trades—all members of the American Federation of Labor. General boycotts were instituted against two baseball clubs—the Cleveland Club and the Pittsburgh Club—because open shop men were employed in the erection of steelwork in the grand stands of the clubs. The boycott against the Pittsburgh Club is editorially mentioned in the magazine, if it interests the committee.

The CHAIRMAN. Put it into the record.

Mr. DREW. I read from the May, 1909, issue:

Even after it became known that the contract for the fabrication of the steel for the new grand stand had been let to the American Bridge Co., efforts were made to induce the officials of the Pittsburgh Club to see that the erection of the work in question was sublet to a contractor who was employing members of Local No. 3, but to no avail; the stand was erected by scabs in the employ of the American Bridge Co., in charge of William (Billy) Hamilton. Our members in the National League cities can show their disapproval of the scab grand stand in Pittsburgh, which was erected by the American Bridge Co. for the Pittsburgh Baseball Club by staying away from the games when the Pittsburgh Baseball Club is in their respective cities. It would also be well to inform all the building trades of the respective localities to this effect and request them that they take similar action. We have everything to gain and nothing to lose by a move of this kind. Other baseball clubs will have grand stands and improvements to make from time to time, and as the patronage of the national game comes largely from the working people, and union men in particular, if we let it be known that we will absolutely refrain from patronizing a club whose management insists on using scabs to erect grand stands and other improvements, we can rest assured that there will be very few scab grand stands erected, whether of steel, reenforced concrete, or wood.

This editorial also mentions, in such a matter of fact way as clearly shows it to be an ordinary matter, an instance of another of the illegal methods commonly used by those men in their fight against open-shop contractors—that is, the deliberate and systematic effort to induce or compel the owner or customer to break a contract already made. In the instance cited, the threat of boycott was used to compel such breach of contract on the part of the Pittsburgh Club. It proved ineffective; but in many other cases, of which from their very nature evidence can not be secured, the threat of boycott or of sympathetic strike or the fear of dynamite, which these people did not hesitate to play upon in talking to the owner and possible customer, were the means of depriving open-shop contractors of business, the volume of which, while it can not be estimated, yet must have reached most substantial proportions.

Coming now to the use of dynamite in connection with this warfare against the open shop in our industry. In the beginning chief reliance seemed to be placed upon the ordinary methods of assault, boycott, etc. Dynamite was used, but only in scattered and isolated cases and in such a way as not to indicate that its use was the result of any general, well-organized plan. Later, the explosions were so located and so timed as to show beyond question that they were the results of a careful, systematic plan of campaign, national in its scope and operation. I will read into the record the number of dynamitings in different years.

In the latter part of 1905 two attempts to dynamite open-shop erection work were made.

In 1906 there were three successful explosions and four attempts.

In 1907 there were six explosions.

In 1908 there were 19 explosions and 4 attempts.

In 1909 there were 21 explosions and 2 attempts.

In 1910 there were 25 explosions, and in 1911, up to April 12, the time of the arrest of McManigal and J. B. McNamara, there were 10 explosions. With the exception of one dynamiting at Mount Vernon, N. Y., on the night before Labor Day, September, 1911, there has been no dynamiting of structural steel work since the arrest of the McNamaras in April, 1911. I will give to the committee a complete list of the cases, but I will not burden you with them now.

Since the year 1907 this series of dynamite outrages betrayed all the signs of careful and premeditated design under the control and direction of some single man or group of men. The early explosions were secured by the use of long time fuses, enabling the agent who touched them off to be far away when the explosions occurred. As showing the concentrated thought and devilish ingenuity expended in the use of this form of union persuasion, the time fuse was later displaced by the time-clock, used in conjunction with a dry-cell electric battery. From these an infernal machine was constructed, which could be so set that the explosion could be timed to the fraction of a second 12 hours in the future. This time-clock contrivance was used on practically all the explosions in the last three years—from Massachusetts to California. It was used in the destruction of the Times plant and of the Llewellyn Iron Works at Los Angeles. It was found upon the bombs set to destroy Gen. Otis and Secretary Zeehandelaer in their homes. Such a device, which failed to explode because of a slight defect in construction, was found at Peoria, Ill., on September 4, 1910, attached to a 10-quart can of nitroglycerin, so placed as to destroy work of the McClintic-Marshall Construction Co. Fragments of these devilish devices had been found on other jobs where explosions had occurred, but this was the first complete infernal machine to be found, and it was this that was one of the chief factors in forging the chain of evidence which led up to the arrest of the McNamaras. This device also made it possible for those who would either unionize erection work or destroy it to increase tenfold the effectiveness of their campaign and incidentally to inject into it a grim species of humor. Explosions on different jobs of the same contractor would be so planned as to occur at exactly the same instant in different sections of the country or at different points in the same city. In Peoria on September 4, 1910, before mentioned, the shop of the Lucas Bridge & Iron Works and a job of the McClintic-Marshall Construction Co. were blown up at precisely the same instant, although in widely separated parts of the city. The machine that failed to explode would have made still a third demonstration and was set to go off at the moment the other two occurred. In the city of Indianapolis, on October 25, 1909, two jobs of a contractor named Von Spreckelsen, who had difficulties with this same union, which grew out of and were part of a general building-trades strike against him, were dynamited in widely separated sections at precisely the same moment of time. At the same moment, also, as an indication of the deadly hate that filled the

hearts of these men, his planing mill and his barn were dynamited. Following the refusal of the firm of Caldwell & Drake, of Columbus, Ind., to unionize some steel-erection work at the city of Omaha, the work at Omaha and their shop at Columbus were dynamited at the same moment on the night of March 24, 1911. Many other instances of this sort can be cited.

To bring this series of outrages home, from the standpoint of a merely criminal performance without equal in the annals of this or any other country, it is estimated, from information already made public, that between three and four hundred quarts of nitroglycerin and over 2,000 pounds of dynamite were transported from one end of this country to the other on passenger trains packed in ordinary suit cases, which were put under the berths in the cars and checked at the stations by the men who blew up these jobs. J. B. McNamara has confessed to the dynamiting of the Los Angeles Times; J. J. McNamara, his brother, has confessed to the employment of McManigal to dynamite the Llewellyn Iron Works; and Ortie McManigal, who has turned State's evidence, has confessed that he personally dynamited 22 of the jobs mentioned in the list filed with this committee, and that he acted under the direction and orders of J. J. McNamara.

The CHAIRMAN. Were they union men?

Mr. DREW. J. J. McNamara, during the six-year period of the fight of the Iron Workers' Union against the open shop, was the secretary of the union and the editor and manager of the Bridgemen's Magazine, its official organ, and also a member of the international executive board. Ortie McManigal belonged to this same union. J. B. McNamara was a brother of J. J. McNamara and is said to have been a union printer.

In all of these cases, the work dynamited was that of a contractor doing business upon an open-shop basis. The unionizing of the work—that is, the discharging of open-shop men and the employment of exclusively union men in their places—was always sufficient to secure immunity from further trouble of this kind. In the case of small contractors, it became a question of utter ruin or the closed shop. After the dynamitings mentioned, Von Spreckelsen's work in Indianapolis was unionized, so also was that of Caldwell & Drake, and of the Pan-American Bridge Co., which will be again referred to. Many of the dynamitings in the last few years were directed against small contractors, and probably over 40 per cent of the entire series of outrages was upon work of contractors not members of the National Erectors' Association. The rather uniform success of this method of attack against the smaller contractor resulted in its more extended use, and there can be no doubt but that the success of this form of union argument in securing closed-shop agreements throughout the East and Middle West invited and encouraged its application in the bitter fight in Los Augeles to unionize that city.

And let it not be supposed that either the light or the thunder of these explosions was hid under a bushel or passed without notice or mention. Each new case was announced almost invariably in the glaring headlines of the great metropolitan papers, and almost as invariably the fact was mentioned that the work dynamited was that of an open-shop contractor who was having some dispute or trouble with the Iron Workers' Union. In many cases a particular dynamiting became a matter of importance and concern not to the Iron

Workers' Union alone, but to all the unions of the building industry, because of local conditions. Thus, in Los Angeles, the fight of the iron workers was merely a part of a general fight of the other building trades and of the Machinists' Union to establish a universal closed shop in that city. So, also, with the Von Spreckelsen dynamitings in Indianapolis. I quote from the Bridgemen's Magazine of the issue of January, 1910, from the report of the business agent of the Indianapolis local of this union. He says:

The next strike was called on the Murat Temple against the general contractor, Albert Von Spreckelsen, in behalf af the carpenters. This fight was a hard one, because we had not only the general contractor to fight but also the Manufacturers' Association. After he tried to make good with nonunion men, the building committee found he could not complete the contract on time, so they took the contract away from him and gave it to the Bedford Stone Construction Co., which is a fair firm. This strike lasted over two months and the work was in an awful shape when the Bedford Co. took it over. We have now all union men employed on said temple and they are going over the work that the nonunion men had done. This fight was a hard blow to the Manufacturers' Association and goes to show what can be done when you have a good building trades council and all crafts stick together.

Of course, the dynamited work was in bad shape when the union men took it over, and of course Mr. Von Spreckelsen and every other citizen of Indianapolis knew perfectly well why the dynamitings had occurred and that they would cease with the discharge of open-shop men. But let us consider a moment. The Iron Workers' Union was one of the important members of the American Federation of Labor, of which Mr. Gompers is president. Its six years' fight to reestablish the closed shop in its industry was of common and general knowledge to all the officers of that organization. In many cases the fight of this union for a closed shop became part of a general fight of building trades unions, all members of the American Federation of Labor, for a like purpose as in the Von Spreckelsen case. Add to this the wide publicity given these outrages and the general reference in the public press in connection with them to the open-shop character of the work dynamited, and then, finally, in the light of these facts, consider the further fact that Mr. Gompers, the mouthpiece of this union before you to-day asking for this legislation, was "surprised and pained" when J. J. McNamara, the secretary of the Iron Workers' Union, was arrested for complicity in this series of crimes. He was not only "surprised and pained," but he publicly asserted and charged that the arrest was due to a vast conspiracy against unionism, of which the National Erectors' Association was a part, and that the evidence upon which that arrest was based was planted and manufactured by those who had plotted this iniquity against the fair name of organized labor. Let your credence in his good faith in expressing that wonder and surprise and in making those charges be the measure of your credence in his good faith when he stands before you asking for this legislation and asserting his desire for it and its great necessity for the purpose of uplifting labor by the use of orderly and peaceful methods.

And now let us refer further to some extracts from the Bridgemen's Magazine, which will throw some additional light upon the purpose and character of this fight of the Iron Workers' Union against the open shop.

The CHAIRMAN. That is the union paper?

Mr. DREW. That is the iron workers' periodical. The July, 1909, issue of the magazine contains a report of J. E. Munsey, business agent Local No. 27, Salt Lake City, and refers to a contract let to the Minneapolis Steel & Machinery Co. for the erection of steel for building the Commercial Club, which company was not an original member of the Erectors' Association, against which no strike had ever been called or was impending at this particular time, and with which no question of wages or hours was at issue. They simply took a contract at Salt Lake City and attempted to erect upon the open-shop basis. Here is the extract from the magazine:

They built a 12-foot board fence around the job so the bunch could not see them, but some ungracious fellows hoisted a few rocks over the fence. They must have been good shots, for they got a couple of them, and the rest of the snakes got "cold feet" and quit. This was on Friday, June 11, and on the following Monday our men went to work. The Minneapolis Steel & Machinery Co. took this particular job to make an issue on it; also used the James Stewart Co. and the Commercial Club as innocent parties, but they could not make it stick. The boys of No. 27 fought nobly for their rights, which were principle and unionism on our side and the open-shop policy on the Minneapolis Steel & Machinery Co.'s part. I think this Mr. Holstrom, who styles himself the "erecting manager" for the Minneapolis Co., will select some other clime to pursue his pet hobby, the open shop.

So they unionized that job.

In the issue of October, 1909, I read from the convention report of H. S. Hockin, member of executive board, who afterwards became acting secretary, is now under indictment at Indianapolis, and is still in good standing, still entitled to participate in the councils of the American Federation of Labor:

April 3 I called on the officers of the Ann Arbor Railroad Co. They also informed me that the McClintic-Marshall Co. were the lowest bidders on six girder spans at Ann Arbor. I explained to them the difference of the two firms regarding the kind of men they worked and the trouble the McClintic-Marshall Co. was having by erecting their work with non-union men. They promised to look into the matter, and I afterwards was informed they gave the last contract to the Kelly-Atkinson Co.

The McClintic-Marshall Co. had been blown up more than any other, and the Kelly-Atkinson Co. was a union concern.

So this man Hockin by his own statement goes to the Ann Arbor Railroad Co. and induces them, by threats, to give a contract to a higher bidder as against a lower bidder because the lower bidder's work was being dynamited. It is official, and it is in their magazine, and Mr. Hockin wants this legislation from you to-day.

The following is from the convention report of Delegate Fitzpatrick, Local No. 10, Kansas City:

Blodgett had a little job on us on a viaduct. This viaduct was a gift to the city from an organization of business men known as the Civic Improvement Association, the active members of which were antagonistic to the purposes of organized labor. This fact made our efforts to have the contract let to a fair and competent contractor fruitless. I understand that the job, from a financial standpoint, was a bad one for the contractor.

This language becomes sinister and significant in the light of the fact that the job was dynamited June 26, 1909, and so was a bad one financially on account of the dynamiting.

In the January, 1910, issue of the magazine, we find the report of W. B. Brown, business agent Local No. 10, Kansas City, Mo., dated December 10, 1909, which is as follows:

We have good jobs coming up this next summer. The only job that looks bad is the bridge that is to be built across the Missouri River. The McClintic-Marshall Co. have the contract. We have been expecting to hear of their subletting the erection of

this bridge either to the Union Bridge Co., of this city, or the Missouri Valley Bridge Co., of Leavenworth. McClintic & Marshall got this iron out for the Iowa Central Railroad Co. It is unnecessary to mention the views of this company toward the structural ironworkers, and if this aforesaid company tries to import a lot of dubs into Kansas City to do this job, we will try and make it interesting for them, for by that time we will probably have two or three hundred men here on other work that is coming up, and I don't suppose we will all be asleep all the time.

Several attempts were made to dynamite this job, and if you could have seen, Mr. Senator, the way in which some of our people had to guard their work in conducting a legitimate business, it would throw a flood of light on this proposition that could not be secured in any other way. There were searchlights stationed at each end of this bridge while under construction, there were boats patrolling the river armed with machine guns, because the attempt was made to drop dynamite down with the tide so that it would lodge against the piers. Jobs of open-shop erectors have been guarded in that manner until recently, and those that were not were very likely to be "bad from a financial standpoint for the contractor."

Now we come to another contractor who did not belong to the Erectors' Association, against whom there was no strike and with whom there was no dispute regarding wages or hours with this union, and I refer to the Pan-American Bridge Co., of Newcastle, Ind. This is from the report of Mr. Hockin, the same Mr. Hockin I spoke of a few moments ago, and is taken from the April, 1910, issue of the magazine:

The Jobst Co., general contractors, had the contract for the new Avery plant, with 1,100 tons of steel to be erected. He let the contract for the erection of the steel to the Pan American Co., of New Castle. Ind. This firm has no more use for a union man than they have for a dog. I took the matter up with the Pan American Co., through Mr. J. D. Smith and Mr. Woods, but they refused to have anything to do with our association.

An assault was made upon the foreman of the Pan American Co. and one of his men by two men who later were found to be members oft he union. The nonunion man was shot. The assailants were arrested, and on the day of their hearing in court April 5, 1910, the shop of the Pan American Co. at New Castle, Ind., was dynamited. Shortly thereafter this company unionized its erection work, and this same Hockin assured the manager, Mr. Smith, that "he would have no more trouble from dynamiting in the future."

I refer you now to the report of the walking delegate for the Peoria, Ill., local, in the June 1910, issue of the magazine, and after the unionizing of this work. He writes:

I thought it about time to let the members at large know that Local No. 112 is still on top of the earth. Halley's comet passed through here on time and found about 30 of our members working for the Pan American Bridge Co. This was a scab job to start with, but this company had to be shown that union men were cheaper.

Another small contractor was Dick Jones, of San Francisco, who took two contracts in Salt Lake City—one for the erection of the Utah Hotel and the other for the Kerns Building. The Utah Hotel job was twice dynamited, once on December 29, 1909, and again on April 18, 1910. These dynamitings and the vicious picketing and other local trouble instituted by the iron workers against Jones resulted in the cancellation of the contract for the Kerns Building by the owners, and later to practically his financial ruin and the relinquishment of the other contract. The following is from the

editorial columns of the magazine in the April (1910) issue, referring to Jones:

It was impossible for him to make any progress on the hotel job, let alone on the Kerns Building, and the result was been that Jones and his scabs have been fired bodily from the latter building and members of Local No. 27 are now erecting it on a strictly union basis. What Local No. 27 has done can be done by other organizations; all that is required is determination and constant and consistent opposition to unfair contractors and anything that savors of the open shop.

In the same issue, the following is taken from the report of J. E. Munsey, business agent of the Salt Lake City local:

There are several new snakes on the Utah Hotel. They are making poor headway. The contract was taken away from the Jones people on the Kerns Building. We are going to show the people in general that it does not pay to hire scabs.

Mr. Jones's case is typical of the small contractor who did not unionize his work upon demand of this union. In this case a union ironworker was arrested for one of these dynamitings and confessed that he had done the job and had been employed to do it by one of the officers of this union.

And again I remind you that these various local troubles with their dynamite accompaniment were given the greatest publicity and notoriety in the press. So bold was this union in its use of the regular union methods of coercion, intimidation, and violence that frequent and regular mention, unmistakable in its meaning and import, appeared in the columns of its official magazine, and presumably that magazine, the organ of one of the largest members of his organization, lay regularly upon the desk of Samuel F. Gompers, president of the American Federation of Labor. With such a campaign being so openly and notoriously conducted in one of the most important industries represented in his organization I ask you again, What sort of a president of the American Federation of Labor would you consider him, had he really been surprised when J. J. McNamara was arrested for complicity in the dynamiting of open-shop work?

Mr. GOMPERS. I suppose I am on trial?

Mr. DREW. You certainly are in so far as you appear in a representative capacity seeking this legislation.

The CHAIRMAN. You will be heard.

Mr. GOMPERS. May I suggest to the gentleman he might mention my full name and not give me any title I may not possess. My name is plain Samuel Gompers. There is no "F" attached to it.

Mr. DREW. I beg your pardon. I am too conscious of the gentleman's ability to maintain and preserve the dignity and importance of his own name to presume to insert even an "F" which he is not entitled to.

I pass now to the report of F. K. Painter in the June, 1910, issue of the magazine. He writes:

We have one bad scab job here, and that is being erected by the Wisconsin Bridge Co., it being a power house for the street railway company. We are living in hopes that Local No. 21 will be able to land this job, as the street car company must have a new franchise this fall, to be voted by the people, and they know what the union vote means here.

Political pressure against the street car company in connection with their franchise failed to secure the cancellation of the contract with the Wisconsin Bridge Co., and this job was dynamited July 21, 1910.

The CHAIRMAN. Let me ask you a question here. During all this period that is covered by your statement, I suppose the union people were erecting a good many structures too?

Mr. DREW. Oh, yes.

The CHAIRMAN. Were any of those structures erected by the unions dynamited during that time?

Mr. DREW. Not one.

The CHAIRMAN. All the dynamiting occurred in reference to those that were in favor of open shops?

Mr. DREW. Yes. I am sorry, Senator, that the fact that there are cases now pending in courts throughout this country involving the series of dynamiting, makes it impossible for me to go into any evidence other than what has been published in the public print. Otherwise I would scarcely be within the limits of professional ethics, and I would also quite probably be in contempt of court.

The CHAIRMAN. Use your own judgment. You are here voluntarily.

Mr. DREW. The October, 1910, issue contains the convention report of Delegate McClory, Local No. 17, of Cleveland. McClory was elected a member of the international executive board in September, 1911, and I will correct the record by the statement that he has not been indicted. He was the only member of the board who was not. He reported as follows:

> While there is considerable open-shop work in the vicinity of Cleveland, the local is making it as unpleasant as possible for those doing it and as costly as they can. During the present year the local has been successful in having some very large contracts taken away from the unfair contractors and given to concerns that recognize the organization.

As a matter of fact, that local did succeed in having contracts canceled after they had been let and relet to firms favorable to this union. The explanation of how they were able to do that in the city of Cleveland is found in the fact that there had been 13 dynamitings in Cleveland and vicinity in the past three years, and also a large number of assaults, as a result of which members of Local No. 17 were arrested and convicted. A great deal of that work was by people who were not members of our association, who had never had a strike called on them by this organization. The mere fact of their going into this locality and attempting to erect work on an open-shop basis was the sole excuse for the attack.

The CHAIRMAN. Aside from these dynamitings that you have referred to, what did the labor organizations do, this iron workers' association, to embarrass the work, and what means of protection did you have to resort to in those cases as a rule? When I say "you," I mean your organization.

Mr. DREW. As I have stated, they did all the things that I ever knew of being done in any labor trouble. They picketed the job, they assaulted the men, they boycotted the firm—our firms have been upon the unfair list of this organization for the last six years—they went to people who were entering into contracts with our people and endeavored to persuade and intimidate them into not making the contracts. In some cases, as I have stated before, it is admitted by their own officers that they brought about the cancellation of contracts already made with our members. They did every single thing that has been done by any labor organization to inflict trouble, cost, and expense upon the employer in his operations. All those things were done outside of the dynamiting.

Mr. EMERY. May I ask, Mr. Drew, if the companies which were members of your association were published on the unfair list of the American Federation of Labor?

Mr. DREW. Yes; that has been done in a number of cases. I do not know what the national Federation of Labor did, but in many local cases, other unions that were members of the American Federation of Labor, joined with the iron workers in calling sympathetic strikes and boycotts.

I have a letter here that perhaps might be interesting. It is on the letter head of the International Association of Bridge and Structural Iron Workers, 517 Superior Building, Cleveland, Ohio. The letter is dated June 8, 1906, addressed to Mr. F. M. Ryan, Ashland House, New York City, and is signed J. J. McNamara, secretary-treasurer. From its terms, I assume it was a circular letter sent to all the members of the committee:

HEADQUARTERS INTERNATIONAL ASSOCIATION,
OF BRIDGE AND STRUCTURAL IRON WORKERS,
Cleveland, Ohio, June 8, 1906.

Mr. F. M. RYAN,
Ashland House, New York City.

DEAR SIR AND BROTHER: Inclosed you will find an appeal for financial aid received from Local Union No. 10 of Kansas City.

By referring to President Ryan's letter of the 7th instant, you can readily see our present financial standing and future prospects.

I have forwarded Brother Gerring, the secretary of Local Union No. 28, Richmond, Va., $100 to assist them in their struggle with the A. B. Co. and Erectors' Association.

Am inclosing you statements from Borden and Elsemore, two members of No. 17 The facts in brief are as follows:

Ex-President Buchanan authorized Brother McClory to do some missionary work in Toledo. McClory thought $150 would be sufficient and I issued him check for the amount. He secured four men. Among them were Borden and Elsemore. They went to Toledo and returned to Cleveland. Shortly after their return they were arrested for assault. We secured attorney and had jury trial. Jury disagreed, 11 for conviction and 1 for acquittal. Our attorney stated that he was positive next trial would result in conviction and advised pleading guilty, with hope of securing parole before election, which was coming up. He also stated that if that was not satisfactory he would withdraw and we could get another attorney. He stated that he was positive that he could secure a parole within 10 days, and acting on his advice I assured the two men they would be recompensed for any time spent in jail. Men pleaded guilty and were sentenced to six months in jail. Attorney proceeded to get parole as promised, but about this time the Central Labor Union of Toledo adopted resolutions against two members of the board of public service, which board was composed of three men and had authority to grant paroles.

The question thus became a political issue, and there was nothing doing in the parole line. When the election rolled around in November, the two members of the board of public service, against whom the Central Labor Union had adopted resolutions, were defeated, but their terms did not expire until January 1, 1906, and they absolutely refused to do anything relative to paroling Borden and Elsemore. When new members took office, their authority to grant paroles was questioned and the case taken to court. It was not settled until the 1st of February. Borden and Elsemore were paroled after spending about five months in jail.

Elsemore received $321.30; Borden received $316.80.

They insisted on receiving more money, which I refused to give them, owing to the fact that we had all sorts of trouble and a very small income to handle it with. They seemed dissatisfied, and I told them to take it up with Ryan or executive board.

It was brought to Ryan's attention when he was at headquarters recently, and he refused to have anything to do with it other than to refer it to the board for an opinion. He stated to them that in his opinion, when all things were considered, they had been very liberally treated by me.

The attorney fees for two trials amount to something like $169.

Hoping to hear from you relative to the above propositions by return mail, I am,

Fraternally, yours,

J. J. MCNAMARA, *Secretary-Treasurer.*

The "President Buchanan" referred to in this letter is now a Member of the House of Representatives, which has passed this bill under discussion.

This concludes the citation of concrete instances in connection with the fight of the Iron Workers' Union against the open shop, and the cases selected form only a small part of the aggregate and were selected merely because they are typical.

The rank and file were not entirely satisfied with the way that the general officers were running this fight against the open shop. They could see the same wages were being paid—in fact, more—that the same hours were being worked, that union conditions were being observed, and they wanted the privilege of going to work; they did not want to be deterred by fine and revocation of membership from going to work. This feeling came to a head at the September, 1908, convention, and a resolution was introduced by Thomas Slattery, of Brooklyn, on behalf of Local No. 35, as follows:

Whereas our industry has been in a state of chaos for the past three years on account of the strike which had been declared by our international association against the American Bridge Co. and others; and

Whereas suffering and disaster have been caused to many of our members throughout the country by the same, compelling many members who have worked years at our craft to seek employment elsewhere; and

Whereas in the estimation of the members of Local 35 there is no chance for a peaceable settlement, and a further extension of the strike will be the means of making many more competent men, as many have been made through the progress of the strike in the past, who are not affiliated with our organization: Therefore be it

Resolved, That we, the members of Local No. 35, do hereby petition your august body that more drastic and radical action be taken in the conducting of the strike or the international association allow the different locals the option of working for firms on the unfair list, where they can get the wages and conditions.

The international officers succeeded in heading off the adoption of this local-option resolution and the whole matter was referred to the international executive committee for action. This committee did not extend the privilege of working open shop. What it did as to taking "more radical action" has become a matter of history.

Here is an item I offer with some hesitation, but inasmuch as some enterprising newspaper man has been able to secure it, and it has been published in the local press of Indianapolis and copied throughout the country, I offer it—another resolution at the 1910 convention by the same Thomas Slattery, of Brooklyn, showing a sense of humor on his part:

Resolved, That no more bombs or other explosives be exploded during this convention.

The resolution was not acted upon and was not published in the regular proceedings.

So, Mr. Chairman, we have the campaign of coercion, intimidation, and of violence to bring about trade agreements brought to its logical conclusion—the use of force in its most deadly form, dynamite. If coercion by boycott is fair and proper, if the gathering in large numbers to intimidate a man to quit work or to intimidate an employer into making an agreement is fair, and these and similar things are proper ways to bring about relations between employers and employees, why is not the use of force in the highest form, dynamite, proper? The principle is the same. It is only a question of degree, and I say to you that Mr. McNamara was one of the most logical followers of the doctrines of the American Federation of

Labor and was brave enough to take these doctrines to their logical and final conclusion.

It may have occurred to the Senator to inquire why we did not begin injunction suits, but an injunction against dynamite would have been far less effective than criminal action, if we had the evidence to secure it. We could not very well enjoin anyone from using dynamite until we had evidence, and the moment we had evidence, criminal action was the proper course.

As to the other matters I have mentioned, one injunction suit was brought, but it was for the purpose of compelling the county commissioners of Cuyahoga County, Ohio, to let a contract to the lowest bidder when they had let it to a higher bidder on account of local union pressure. That is the only suit our people have brought during these six years. Our jobs are widely scattered all over the country, and to have resorted to the use of injunctions would have necessitated actions everywhere. We found we could place little or no dependence on any local police force, and we had to look after ourselves—have our own system of protection. Therefore our guarding system was developed, which proved more or less effective, but which did not prevent, as I said, one hundred odd dynamitings during the past four years. Mr. McNamara, arrested for the Llewellyn Iron Works explosion, has plead guilty. I can not stand before you and claim that he and his associates are guilty of all these other dynamitings until the matter has been determined by a court of record competent to determine it. But I have given you those extracts from their own magazine. I have shown you the spirit of this organization, the boycott, the assaults, the hatred, and the malice; I have shown you what character of men, speaking through Mr. Gompers, stand before you to-day asking for this legislation, asking for this license; and if he did not know at that time, if it was a surprise to him to have this series of dynamitings charged to members of his own organization, he knows now. Yet he stands before you asking for this legislation, with the secretary and the editor of the magazine of this union now serving time in prison, its executive board and many local officers under indictment, and the union itself still a member of the American Federation of Labor.

Another matter I will present if the Senator wants to listen to more along this line as to practices under a different set of circumstances in the city of Chicago. There the closed-shop system became universal, the building industry was absolutely closed, and the local unions had a monopoly. So fruitful was this monopoly to the unions and to their officers and members that there began to be competition among themselves internally over the spoils of monopoly. Different unions sprang up in the same crafts, each fighting for the control of their industry, with the result Mr. Chairman that during the year 1911 the building industry of Chicago at different times was practically tied up and at a standstill while rival unions, members of the American Federation of Labor, fought for control. The interests of the employer, of the contractor, and of the city of Chicago were absolutely disregarded and trade agreements were violated. These warring factions went to the extent of hiring professional gun men to kill the officers each of the other. These things are matters of court record of the city of Chicago, and a number of those men are now serving time in the penitentiary

under conviction for murder, assault, and manslaughter, the records clearly showing their employment by officers of unions that were members of the American Federation of Labor. Mr. Gompers took cognizance of that situation, because internal warfare was a disastrous thing. He went to the city of Chicago, and I have the statement of the public press that he made every effort to bring these warring factions together without success. So his policy of coercion, threat, and violence has raised up in his own ranks forces that he can not control. And be he the best man in the world, and be he seeking this legislation in good faith, there still remains the fact that there are these forces under him which it has been shown he can not control. He did not control the McNamaras. He could not settle the internal warfare in Chicago. License by this legislation will be given to the people who have been doing these things, and the man who stands before you as their mouthpiece asking for it can not very well answer that he personally does not stand for these things. Admitted that he will not dynamite, or assault, or do any of these things, yet this legislation would say to the man who does want to do them that he had the sanction of Congress for the principle of force and intimidation. With such sanction for the principle, the question of the character and degree of coercion to be used in practice would be one he would doubtless feel able to decide for himself.

Four years ago, in the city of Washington, I was called in by the employers in the building industry. The brief history of the matter is this: The building industry in Washington had been unionized and working under closed-shop agreements for a number of years. Some trouble came up in the plumbing industry and nonunion plumbers became employed in certain shops. This broke in on the general closed-shop conditions and was very unsatisfactory to the local building trades association, so a number of strikes were called in order to compel the discharge of these nonunion plumbers. The master plumbers asked for arbitration, and there was arbitration, in fact three arbitrations, and in each of those three arbitrations it was held by the arbitrators that the master plumbers had the right under their agreement and under conditions as they were testified to before the arbitrators to employ these nonunion plumbers, and in the last arbitration, before Capt. Oyster, at a time when there were seven building trades out on strike, it was held that these seven trades were unlawfully on strike, contrary to their agreement, and the arbitrators directed that they should return their men to work. Did they, after going into these three arbitrations, accept the decree of the arbitrators that they should recognize their trade agreement? Not at all. A national convention of representatives of practically all the building trades-unions in the country was called here in the city of Washington, at which Mr. Gompers was present, and if the report of his attitude contained in the public press is any criterion of his real attitude, everything they did he indorsed. At that time a general building trades strike was inaugurated in the city of Washington for the sole purpose of compelling the discharge of those nonunion plumbers and of restoring the building industry of Washington to a complete closed-shop basis. When one national labor leader was asked by a reporter about the trade agreement and its violation, he said, "To hell with trade agreements when it is a question of the closed shop."

The bricklayers at first did not join that strike, because at that time they were not affiliated with the American Federation of Labor, but later they were induced to join and became a most powerful part of the building trades association and started a very strenuous campaign, engaging in picketing, assaults, and other such methods. At that time, as counsel for those people, I took the matter up with the Judiciary Department of the United States Government, making out what I thought was a case under the Sherman Antitrust Act, these matters having happened in the District of Columbia. I could not secure any action from the Judiciary Department at that time, and a private injunction suit was brought and a temporary injunction was granted, which, by the way, has remained in force to this day.

Mr. DAVENPORT. Was there any motion to dissolve?

Mr. DREW. Yes; they made a motion to dissolve, and, if I remember, the motion was denied. The case went on to hearing and a great deal of evidence has been taken, but the matter has not progressed to a final decree, because neither side has made any special effort to get a final decree.

Mr. DAVENPORT. If this bill should pass, it would become invalid?

Mr. DREW. We could not have gotten a decree at all.

The CHAIRMAN. How is it now in the city of Washington? Do they have a closed shop or open shop?

Mr. DREW. Nominally an open shop, but a large percentage of the men employed are union men.

The CHAIRMAN. You mean open shop, but a large number of union men employed in them?

Mr. DREW. Yes; because there is no special objection to union men on a job so long as the limitations and restrictions are not objectionable; not absolutely intolerable. In our industry they reached a point where they became intolerable and prohibitive. The union would allow its men to drive only from 75 to 100 rivets a day. If the Senator is interested in this question, I can refer him to the Eleventh Special Report of Carroll D. Wright, Commissioner of Labor, in which he goes exhaustively into the restrictions of output on the part of unions in this country, and it is an amazing situation which he discloses, especially in the building trades. He refers in his report to a matter I was just going to bring up—that in the last development of the closed shop comes the conspiracy between the union and the employers' association against the general public. The employer fights without police protection, without aid from any quarter, and with his brother employers competing with him until he gets tired of it. He organizes an association of his own and makes a deal with the union, and that deal amounts to this: You keep other contractors out of this town or out of this territory and we will employ nobody but members of your organization. That deal has become effective in the city of New York, so that in several large building trades the doors of that great market are absolutely closed to outside contractors for the sale of material for erection purposes. In the marble industry, for instance, it has been estimated that it costs from four to five times as much to cut marble in New York City as anywhere else in the United States, because of such a conspiracy between the employers' association and the union. In the last analysis, that is a logical result—the conspiracy between the union and the employers' associa-

tion against the public. That is something our people would not go into, and we have had to fight for six years to maintain our right to do business. An injunction suit is now pending in New York to bring to an end such a conspiracy in the carpenter industry.

Mr. MONAGHAN. Is it not a fact that under the present bill such a conspiracy could not be enjoined?

Mr. DREW. You could not enjoin it because the boycott and other measures employed by such a conspiracy would be legalized by this bill.

Mr. DAVENPORT. Even if offered by the Government for the purpose of enforcing the Sherman antitrust law?

The CHAIRMAN. If you wish to discuss the particular provisions of the bill, I would be glad to have you do so.

Mr. DREW. I should be glad to do that, but others, I believe, intend to address the committee along those lines. I do wish, however, to indorse what Mr. Monaghan has so ably said as to the practical features of the measure.

That is all I have to say, Mr. Chairman.

The CHAIRMAN. We will now adjourn until Monday afternoon at 2 o'clock.

Thereupon, at 4.35 o'clock p. m., the hearing was adjourned until Monday, June 17, 1912, at 2 o'clock p. m.

EXHIBIT 1 TO STATEMENT OF WALTER DREW.

Comparative statement of rate of wages paid to structural iron workers and to carpenters in the United States, 1910.

[The rates given are the number of cents per hour for an 8-hour day. The 8-hour day in the building trades is almost universal.]

	Structural iron workers.	Carpenters.		Structural iron workers.	Carpenters.
Albany, N. Y	56¼	40–45	Milwaukee, Wis	56¼	40
Atlanta, Ga	50	32	Minneapolis, Minn	50	45
Baltimore, Md	43¾	43¾	Newark, N. J	56¼	50
Boston, Mass	50	50	New Orleans, La	50	45
Buffalo, N. Y	55	45	New York, N. Y	62½	62½
Burlington, Vt	56¼	33⅓	Oklahoma, Okla	56¼	50
Cedar Rapids, Iowa	50	45	Omaha, Nebr	56¼	50
Chicago, Ill	65	60	Peoria, Ill	50	50
Cincinnati, Ohio	50	50	Philadelphia, Pa	50	45
Cleveland, Ohio	60	45	Pittsburgh, Pa	50	50
Columbus, Ohio	60	45	Portland, Oreg	56¼	50
Dallas, Tex	62½	50	Richmond, Va	50	50
Denver, Colo	56¼	60	Rochester, N. Y	50	43¾
Des Moines, Iowa	50	50	Salt Lake City, Utah	43¾	62½
Detroit, Mich	40	45	San Francisco, Cal	62½	62½
Duluth, Minn	50	45	Scranton, Pa	50	45
East St. Louis, Mo	60	55	Seattle, Wash	62½	56¼
Erie, Pa	45	30	St. Louis, Mo	65	60
Hartford, Conn	50	50	St. Paul, Minn	50	45
Indianapolis, Ind	60	42½	Tacoma, Wash	55	50
Jackson, Miss	40	37½	Toledo, Ohio	45	37½
Los Angeles, Cal	40	43¾	Washington, D. C	50	50
Louisville, Ky	37½	34½–43¾	Wheeling, W. Va	50	37½
Kansas City, Mo	56¼	50	Wilmington, Del	50	40
Memphis, Tenn	50	50			

EXHIBIT 2 TO STATEMENT OF WALTER DREW.

Assaults upon nonunion foremen and men in the employ of open-shop contractors of iron and steel erection work.

No.	Date.	Location.	Employer.	Party assaulted.	By—
1	Dec. 2, 1905	New York City, American Can Co. Building.		Edw. H. Scott	David Marks, Edward Lynch, John McShea (union men).
2	Dec. 8, 1905	New York City, 615 East Fifteenth Street.		Daniel Reilly	Number of unknown men.
3	Dec. 9, 1905	New York City, Thirty-seventh Street and Seventh Avenue.		Walter Johnson and Peter Ruger.	2 unknown men.
4	do	New York City, Fourteenth Street and Third Avenue.		Nicholas Hawley	Unknown man.
5	Dec. 11, 1905	New York City		Wm. J. Driscoll	Do.
6	Dec. 18, 1905	Brooklyn, N. Y., Flushing and Bushwick Avenues.		Paul Blakely	4 unknown men.
7	Latter part of 1905	Buffalo, N. Y	American Bridge Co	Timekeeper	2 union ironworkers. Men were apprehended and received a sentence on Jan. 6, 1906, of 60 days in workhouse and a fine of $50.
8	Latter part 1905 or fore part 1906.	do	do	Workman of above company; acid thrown in face, completely blinding him.	Unknown man.
9	Jan. 4, 1906	New York City, 1456 Amsterdam Avenue.		Arthur Halin	4 or 5 unknown men.
10	do	New York City, Third Avenue and Twenty-third Street.		Frank A. Neil	2 unknown men.
11	do	New York City, Third Avenue near Thirtieth Street.		Harry Woods and Edw. McCarthy.	Man named John Francis.
12	Jan. 5, 1906	New York City, Wanamaker Building.	J. B. & J. M. Cornell Co	Thos. Lamey, Peter Engelhardt, Alfred Gray, and another man.	Other ironworkers employed on same building by Merritt & Co.
13	do	New York City	Post & McCord	G. R. Robinson; jaw fractured, etc.	(?)
14	do	New York City, Seventh Avenue and Twenty-third Street.	do	Frank O'Neil	J. Kelly and several other men. Grand jury indicted Kelly for felonious assault.
15	Jan. 5, 1906	New York City, One hundred and twenty-seventh Street and Amsterdam Avenue.		Foreman Beekman and Special Officer Rown.	2 strikers, Spangenberg and Smith, who were arrested and fined $3 each.
16	do	New York City, One hundredth Street and Central Park West.	Hinkle Iron Co	W. J. Kenny (outside superintendent).	Man named Frank Keller and 2 other strikers.
17	do	New York City, 32 West One hundredth Street.	do	Man named Baggs	Several men.
18	do	New York City, South Ferry Subway station.		Jas. McConnell	
19	Jan. 6, 1906	Cleveland, Ohio	American Bridge Co	W. N. Rannels (timekeeper).	Timothy Murphy, a member of Local No. 17, Cleveland, who was sentenced to 30 days in workhouse, and Geo. Merriman, a union man.

Assaults upon nonunion foremen and men in the employ of open-shop contractors of iron and steel erection work—Continued.

No.	Date.	Location.	Employer.	Party assaulted.	By—
20	Jan. 6, 1906	New York City, Thirty-fifth Street, near Sixth Avenue.		Jos. E. Carter	2 men.
21	Jan. 9, 1906	New York City, Battery Place Elevated Station.	Geo. A. Fuller Co	Robt. Lynch and Wm. Lee.	10 or 12 men.
22	Jan. 10, 1906	New York City, Arcade Building	Hopkins & Co. (subcontractor of Hinkle Iron Co.).	Harry Stodder	2 men.
23	Jan. 11, 1906	New York City, near One hundred and ninety-first Street.		John Krauss (thrown in river after assault).	2 men; a striker named Armour was arrested and held under $500 bail for trial in special sessions.
24	do	New York City, Bleecker Street Elevated Station.	J. B. & J. M. Cornell Co	4 employees and guard	Strikers.
25	do	New York City, Seventh Avenue and Eighteenth Street.	do	3 employees	6 strikers.
26	do	New York City, Twelfth and Hudson Streets.	Whale Creek Iron Works	L. Billman and 6 other employees.	25 men.
27	Jan. 12, 1906	New York City, 125 East Sixty-fifth Street.		Zvornik & Feigenbaum	6 men.
28	Jan. 13, 1906	New York City, Twenty-fourth Street, between Third and Lexington Avenues.	Post & McCord	Guard named Corcoren	Man named John Kelley, who made the attack at instigation of man named John Francis, who was with him at the time. Both men were arrested. Kelley was discharged, and Francis was held on charge of assisting in assault on Chas. R. Brown at same building some days before.
29	Jan. 16, 1906	New York City, Ninth Avenue and Twelfth Street.	Post & McCord	Jos. Birk and John Higgins	6 men; 2 of these men, one named McCormack and the other Cooney, were arrested and held for grand jury in $1,000 bail.
30	Jan. 17, 1906	New York City, Twelfth and Hudson Streets.	Whale Creek Iron Works	E. Treubner (representative of concern).	3 men.
31	Jan. 21, 1906	New York City, One hundred and twenty-sixth Street and Third Avenue.	Post & McCord	Albert F. Dion and 2 other men.	About 10 men.
32	Jan. 22, 1906	Brooklyn, N. Y., Wallabout Bridge	Hecla Iron Works	W. Ewing (helper)	Gang of men, presumably strikers.
33	Jan. 23, 1906	New York City, Pennsylvania Ferry boat.	Fagan Iron Works	Alex Weiser	(?)
34	Jan. 25, 1906	Jersey City, N. J., Telephone Building.	do	John Hagstrom and Wm. Kattenbeck.	Man named Fred Alles; police justice fined this assailant $20, which was paid by the delegate of the union.
35	do	New York City, Twenty-third Street and Third Avenue.	Post & McCord	Geo. Kunzman (guard)	2 men, who were later arrested and identified as Peter Conroy and Cornelius O'Keefe, union ironworkers.
36	Jan. 26, 1906	New York City, One hundred and forty-seventh Street and Broadway.	Hinkle Iron Co	Mark A. Wetzel (hoisting engineer).	(?)

37	Feb. 7, 1906	Brooklyn, N. Y., Flushing and Tompkins Avenues.	Hecla Iron Works	J. Jahrstofer (finisher)	A man who gave his name as Peter Cooper, but whose true name was found to be Wm. Gilrain (a structural ironworker employed by Franklin Boiler Co. on same job), was arrested and held for examination; Wm. Hawkes, the business agent of the Brooklyn Union, appeared in court to look after the defendant's interests.
38	Feb. 22, 1906	New York City	Post & McCord	Samuel Anderson	Frank Hawkins, a union ironworker, and others; Hawkins was sentenced to a year in the penitentiary.
39	March, 1906	New York City, Fifty-fourth Street and Third Avenue.	Levering & Garrigues Co.	Jas. S. Kane (guard; found in saloon with throat cut).	(?)
40	do	New York City	Post & McCord	Wm. A. Mullaney (foreman; bottle of ammonia thrown at him).	Frank Nagel, formerly secretary of Local No. 2, was held in $2,500 bail for this assault.
41	do	do	do	Dennis Hogan (shot at)	Thos. Slattery, business agent of Local No. 35, of Brooklyn, who was never tried for this offense.
42	Mar., 1906	(?)	Milliken Bros	Wm. Kennedy	Thos. Slattery, business agent of Local No. 35, of Brooklyn.
43	Apr. 30, 1906	New York City, Twenty-fourth Street, west of Seventh Avenue.	J. B. & J. M. Cornell Co.	Daniel Murphy	Man named David Conners, an iron worker, who was arrested and held for special sessions.
44	May 11, 1906	New York City, United States Express Co. Building.	Richey, Browne & Donald	Workmen of above company.	Workmen employed by Thompson-Starrett on same building.
45	May 14, 1906	Pittsburgh, Pa.	Riten-Conley Manufacturing Co.	E. P. Manion	2 unknown men.
46	May 15, 1906	do	Fort Pitt Bridge Works	Algeo and Schultz	4 or 5 unknown men.
47	May 23, 1906	Pittsburgh, Pa., Pennsylvania R. R. freight depot.	Riter-Conley Manufacturing Co.	John P. Scott	2 unknown men.
48	May 26, 1906	Colonia, Pa	McClintic-Marshall Construction Co.	Wm. Moore	2 men; assailants were arrested and held, but Moore failing to appear against them in court, they were discharged.
49	May 30, 1906	Pittsburgh, Pa.	Riter-Conley Manufacturing Co.	Geo. Brewer	Herbert Luce, a union man, who was indicted for assault and battery and held in $300 bail, which was later forfeited by his nonappearance in court.
50	May 31, 1906	do	do	C. N. Shallenberger	Men unknown to him. One of his alleged assailants, who gave his name as P. F. O'Malley, was later arrested, but was discharged.
51	May, 1906	Pittsburgh, Pa., Wabash Station	do	Harry Kenneweg	3 men; one of his assailants was arrested, but was discharged.
52	June 4, 1906	Pittsburgh, Pa.	do	Henry Weiscarger	Unknown men.
53	June 8, 1906	do		Wm. Ulmer	M. J. Monroe, a striker, who was found guilty and fined $10.
54	June 11, 1906	Hazelwood, Pa.	Riter-Conley Manufacturing Co.	Clark Dunn and Thos. L. Lyons.	Man named Thos. Walsh and other strikers.
55	June 13, 1906	Follansbee, W. Va	Fort Pitt Bridge Works	Wm. Wilson, foreman	Wm. Wise, "Mickey" Welsh, Geo. Harvey, Wm. Lowman, John Davis, and "Jack" Foley, all union men. Wise was sentenced to 7 years in penitentiary. The other assailants are fugitives from justice.
56	June 25, 1906	New York City, Plaza Hotel		Martin Plaucer	Man named Shea and 3 other men. Shea held in $500 bond, which was forfeited on account of his nonappearance in court.

Assaults upon nonunion foremen and men in the employ of open-shop contractors of iron and steel erection work—Continued.

No.	Date.	Location.	Employer.	Party assaulted.	By—
57	July 11, 1906	New York City, Plaza Hotel	Geo. A. Fuller Co	Michael Butler (officer) and 3 other policemen. Butler was killed.	Several union men, 4 of whom were arrested and identified by Butler before he died.
58	July 26, 1906	Allegheny, Pa	American Bridge Co	John Mobley, Esta Emanuel, and others.	5 union men.
59	September, 1906	New York City, United States Express Co. Building.		Swinson (foreman)	Man named Alexander Fredericks, who was fined $10.
60	About Nov. 24, 1906	Pittsburgh, Pa		Several nonunion men	Number of men. Michael Cochran, a union structural iron worker, who was alleged to be one of the assailants, arrested and committed to Allegheny County Jail in default of $2,000 bail.
61	Latter part 1906 or fore part 1907.	Near Ben Avon, Pa	American Bridge Co	Watchman; shots fired at him resulting in his death.	Unknown parties.
62	Feb. 6, 1907	Ashtabula, Ohio	Pittsburgh Steel Construction Co.	Geo. W. Ryle	John O'Brien, Robt. Butler, Steve Davern, "Rube" Shane, members of Local No. 17, Iron Workers' Union, Cleveland. O'Brien was sentenced to 7 years in Ohio Penitentiary. In connection with his defense, the Cleveland local acknowledges having spent upward of $5,000, also $500 for his family. One of the witnesses at the trial stated that one of the men who committed the assault was hired by the secretary of the Cleveland local to do the job. The 3 other assailants jumped their bail ($500 each), which was paid by the Cleveland local.
63	Feb. 27, 1907	Pittsburgh, Pa	McClintic-Marshall Construction Co.	H. L. Bowers (foreman)	Unknown party.
64	February, 1908	Cleveland, Ohio, Eagle Street Bridge	Interstate Engineering Co	Engineer	
65	Apr. 23, 1908	Cleveland, Ohio, Brookside Park Zoo	Skeel Bros	Contractor F. A. Skeel	3 men.
66	May 19, 1908	New York City, Bronx	Pennsylvania Steel Co	Watchman named Hawkes	2 men, who left dynamite behind them in their flight.
67	May, 1908	Brooklyn, N. Y	Hay Foundry & Iron Works.	J. and M. Imback	(?)
68	Sept. 18, 1908	Chicago, Ill	Wisconsin Bridge & Iron Co.	Jas. Lynch, watchman (murdered).	(?)
69	Nov. 7, 1908	New York City, Bronx		Abraham Schwartz	2 men.
70	Mar. 6, 1909	Cleveland, Ohio		7 nonunion men	Alleged to be Nipper Anderson, O'Brien, and O'Malley, members of Local No. 17, Cleveland, Ohio.
71	Mar. 9, 1909	do	Van Dorn Iron Works Co	2 employees	(?)
72	May 11, 1909	South Brooklyn, N. Y., Fifty-seventh Street and Second Avenue.	American Bridge Co	Wesley J. Sutton, foreman	6 or 8 men.
73	May 21, 1909	New York City, Fifty-seventh Street and Broadway.	Hay Foundry & Iron Works.	Frank H. Fixel, foreman	Archie Dunn, member of Local No. 40 of the Iron Workers' Union, and others.
74	May 26, 1909	Cleveland, Ohio	Van Dorn Iron Works Co	Guard	Gang of union iron workers.

75	July 9, 1909	do		Richard Jensen	Men he claimed were union structural-iron workers.
76	Mar. 7, 1910	do	Van Dorn Iron Works Co	3 employees	(?)
77	June 25, 1910	New York City, One hundred and twenty-fifth Street and Park Avenue.	Pennsylvania Steel Co	James S. Headrick, foreman.	2 men.
78	June 28, 1910	New York City, 49 East Fifty-second Street.	Whale Creek Iron Works	Emil Hubinsky and J. Raschka.	Jos. Siebold, a union man, who was sentenced to 10 days.
79	Aug. 2, 1910	Cleveland, Ohio	American Bridge Co	Foreman and four men	Gang in two automobiles. It is alleged that the autos belonged to Vic. White and Kid Lyons, local saloon keepers, and that Pete Smith, business agent of Local No. 17 of the Iron Workers' Union, led the assault. Smith was acquitted, however. Lyons was formerly a union iron iron worker and is said to still pay dues to the union.
80	Sept. 28, 1910	New York City, Park Avenue and One hundred and sixty-sixth Street.	Hay Foundry & Iron Works.	J. W. Brown, foreman	Man named Jas. McGarry, who was arrested and held in $1,500 bail, which he jumped. Several days before the assault Brown was threatened by the delegate of Local No. 40, Iron Workers' Union.
81	Sept. 30, 1910	New York City, Twenty-seventh Street, between Sixth and Seventh Avenues.	Hay Foundry & Iron Works.	Robt. Koehler, foreman	Geo. Smith, a union ironworker, and two other men. Smith was arrested and held under $500 bond for special sessions.
82	Dec. 16, 1910	Astoria, Long Island, N. Y	McDougall & Potter Co	Ralph and Max Schiverbisk.	Two unknown men.
83	May 1, 1911	Cleveland, Ohio	Van Dorn Iron Works Co	5 men	30 union ironworkers. Pete Smith, business agent of Local No. 17, Iron Workers' Union, Cleveland, is alleged to have been in the crowd.
84	May 15, 1911	do	do	4 employees	(?)
85	May 20, 1911	do	Anchor Fence & Iron Co	2 employees	(?)
86	do	do	Pennsylvania Steel Co	John Stewart and another man.	8 men.
87	May 23, 1911	do	Anchor Fence & Iron Co	Employees	Gang of union iron workers, including Pete Smith, Joe Santry, Stewart Kennedy, Wm. Slocum, Joe O'Rourke. All these men were arrested, but Smith and Kennedy were acquitted. Slocum was also acquitted. Santry and O'Rourke were found guilty, but their sentence was suspended.
88	May 25, 1911	do	Van Dorn Iron Works Co	2 employees	(?)
89	May 30, 1911	do	do	A. M. Smith	Man named Hayman, said to be member of Local No. 17 of the Iron Workers' Union, and several others.
90	June 12, 1911	do	Pennsylvania Steel Co	3 employees	Unknown parties.
91	June 22, 1911	Huron, Ohio	Chicago Bridge & Iron Co	Employees	(?)
92	July 12, 1911	Lakewood, Ohio	Connelly Construction Co	do	Several men, alleged to be members of Local No. 17, Iron Workers' Union, Cleveland. Chas. McManus and Lee Burnell, union men, were arrested for this assault and held without bail. They pleaded guilty and their fine of $50.10 was apparently paid by the local union.
93	Oct. 5, 1911	Cleveland, Ohio	Van Dorn Iron Works Co	3 ironworkers	(?)

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62	Feb. 6, 1907	Ashtabula, Ohio	Pittsburgh Steel Construction Co.	Geo. W. Ryle	John O'Brien, Robt. Butler, Steve Davern, "Rube" Shane, members of Local No. 17, Iron Workers' Union, Cleveland. O'Brien was sentenced to 7 years in Ohio Penitentiary. In connection with his defense, the Cleveland local acknowledges having spent upward of $5,000, also $500 for his family. One of the witnesses at the trial stated that one of the men who committed the assault was hired by the secretary of the Cleveland local to do the job. The 3 other assailants jumped their bail ($500 each), which was paid by the Cleveland local.
63	Feb. 27, 1907	Pittsburgh, Pa	McClintic-Marshall Construction Co.	H. L. Bowers (foreman)	Unknown party.
64	February, 1908	Cleveland, Ohio, Eagle Street Bridge	Interstate Engineering Co	Engineer	
65	Apr. 23, 1908	Cleveland, Ohio, Brookside Park Zoo	Skeel Bros	Contractor F. A. Skeel	3 men.
66	May 19, 1908	New York City, Bronx	Pennsylvania Steel Co	Watchman named Hawkes	2 men, who left dynamite behind them in their flight.
67	May, 1908	Brooklyn, N. Y	Hay Foundry & Iron Works.	J. and M. Imback	(?)
68	Sept. 18, 1908	Chicago, Ill	Wisconsin Bridge & Iron Co.	Jas. Lynch, watchman (murdered).	(?)
69	Nov. 7, 1908	New York City, Bronx		Abraham Schwartz	2 men.
70	Mar. 6, 1909	Cleveland, Ohio		7 nonunion men	Alleged to be Nipper Anderson, O'Brien, and O'Malley, members of Local No. 17, Cleveland, Ohio.
71	Mar. 9, 1909	do	Van Dorn Iron Works Co	2 employees	(?)
72	May 11, 1909	South Brooklyn, N. Y., Fifty-seventh Street and Second Avenue.	American Bridge Co	Wesley J. Sutton, foreman	6 or 8 men.
73	May 21, 1909	New York City, Fifty-seventh Street and Broadway.	Hay Foundry & Iron Works.	Frank H. Fixel, foreman	Archie Dunn, member of Local No. 40 of the Iron Workers' Union, and others.
74	May 26, 1909	Cleveland, Ohio	Van Dorn Iron Works Co	Guard	Gang of union iron workers.

75	July 9, 1909	do		Richard Jensen	Men he claimed were union structural-iron workers.
76	Mar. 7, 1910	do	Van Dorn Iron Works Co	3 employees	(?)
77	June 25, 1910	New York City, One hundred and twenty-fifth Street and Park Avenue.	Pennsylvania Steel Co	James S. Headrick, foreman.	2 men.
78	June 28, 1910	New York City, 49 East Fifty-second Street.	Whale Creek Iron Works	Emil Hubinsky and J. Raschka.	Jos. Siebold, a union man, who was sentenced to 10 days.
79	Aug. 2, 1910	Cleveland, Ohio	American Bridge Co	Foreman and four men	Gang in two automobiles. It is alleged that the autos belonged to Vic. White and Kid Lyons, local saloon keepers, and that Pete Smith, business agent of Local No. 17 of the Iron Workers' Union, led the assault. Smith was acquitted, however. Lyons was formerly a union iron iron worker and is said to still pay dues to the union.
80	Sept. 28, 1910	New York City, Park Avenue and One hundred and sixty-sixth Street.	Hay Foundry & Iron Works.	J. W. Brown, foreman	Man named Jas. McGarry, who was arrested and held in $1,500 bail, which he jumped. Several days before the assault Brown was threatened by the delegate of Local No. 40, Iron Workers' Union.
81	Sept. 30, 1910	New York City, Twenty-seventh Street, between Sixth and Seventh Avenues.	Hay Foundry & Iron Works.	Robt. Koehler, foreman	Geo. Smith, a union ironworker, and two other men. Smith was arrested and held under $500 bond for special sessions.
82	Dec. 16, 1910	Astoria, Long Island, N. Y	McDougall & Potter Co	Ralph and Max Schiverbisk.	Two unknown men.
83	May 1, 1911	Cleveland, Ohio	Van Dorn Iron Works Co	5 men	30 union ironworkers. Pete Smith, business agent of Local No. 17, Iron Workers' Union, Cleveland, is alleged to have been in the crowd.
84	May 15, 1911	do	do	4 employees	(?)
85	May 20, 1911	do	Anchor Fence & Iron Co	2 employees	(?)
86	do	do	Pennsylvania Steel Co	John Stewart and another man.	8 men.
87	May 23, 1911	do	Anchor Fence & Iron Co	Employees	Gang of union iron workers, including Pete Smith, Joe Santry, Stewart Kennedy, Wm. Slocum, Joe O'Rourke. All these men were arrested, but Smith and Kennedy were acquitted. Slocum was also acquitted. Santry and O'Rourke were found guilty, but their sentence was suspended.
88	May 25, 1911	do	Van Dorn Iron Works Co	2 employees	(?)
89	May 30, 1911	do	do	A. M. Smith	Man named Hayman, said to be member of Local No. 17 of the Iron Workers' Union, and several others.
90	June 12, 1911	do	Pennsylvania Steel Co	3 employees	Unknown parties.
91	June 22, 1911	Huron, Ohio	Chicago Bridge & Iron Co	Employees	(?)
92	July 12, 1911	Lakewood, Ohio	Connelly Construction Co	do	Several men, alleged to be members of Local No. 17, Iron Workers' Union, Cleveland. Chas. McManus and Lee Burnell, union men, were arrested for this assault and held without bail. They pleaded guilty and their fine of $50.10 was apparently paid by the local union.
93	Oct. 5, 1911	Cleveland, Ohio	Van Dorn Iron Works Co	3 ironworkers	(?)

Assaults upon nonunion foremen and men in the employ of open-shop contractors of iron and steel erection work—Continued.

No.	Date.	Location.	Employer.	Party assaulted.	By—
94	Oct. 21, 1911	Cleveland, Ohio	Griere & Walker	Frank Young, engineer	Len Lyons, who was found guilty of assault and battery.
95	Oct. 30, 1911	Brooklyn, N. Y., near Fourth Street and Fifth Avenue.	Levering & Garrigues Co.	Walsh	Thos. Slattery, business agent of Local No. 35, Iron Workers' Union, Brooklyn; held under $500 bail; case still pending.
96	June 13, 1912	Cleveland, Ohio	Samuel Austin Son & Co.	Workmen	

EXHIBIT 3 TO STATEMENT OF WALTER DREW.

List of depredations, dynamitings, attempts, etc.

No.	Date.	Location.	Contractor.	Owner.	Nature of work.	Nature and extent of damage.
1	Summer, 1905	New Haven, Conn., Kimberly Avenue.	American Bridge Co.	City of New Haven and town of Orange.	Bridge over West River	Dynamite discovered in fire box of hoisting engine.
2	Dec. 8, 1905	Millers Falls, Mass	do	Central Vermont R. R.	Railroad bridge	13 sticks of dynamite discovered; fuse had been lighted, but became extinguished before fire reached dynamite.
3	Mar. 12, 1906	Cleveland, Ohio, Hotel Frankfort.	do			Attempt made to dynamite hotel occupied by nonunion workmen in employ of the American Bridge Co.
4	Apr. 2, 1906	Cleveland, Ohio	do		Arcade Building	3 sticks of dynamite discovered in fire box of hoisting engine, with fuse attached, which had been lighted.
5	May 12, 1906		do	Buffalo & Susquehanna R. R.	Railroad bridge	Attempt made to dynamite derrick car.
6	May 31, 1906	Newark, N. J	Pittsburgh Construction Co.	Central R. R. of New Jersey.	Warehouse	Derrick in storage yard wrecked by dynamite.
7	Aug. 15, 1906	Conshohocken, Pa	McClintic-Marshall Construction Co	Longmead Iron Co	Iron Mill	Damaged to extent of several thousand dollars by incendiary fire.
8	Sept. 25, 1906	Cleveland, Ohio	Pittsburgh Construction Co.	Nickel Plate R. R.	Railroad viaduct	Attempt made to dynamite derrick car; explosive (with time clock and fuse) evidently thrown from passing train.
9	Oct. 12, 1906	Near Clairton, Pa	American Bridge Co.	Pittsburgh, Virginia & Charleston Ry.; West Side Belt Line Ry.	Viaduct	Derrick car dynamited.
10	Dec. 30, 1906, 8.30 p. m.	Whisky Island, near Cleveland, Ohio.	Pittsburgh Construction Co.		Bascule bridge over Cuyahoga River.	Dynamite placed under derrick car; damage slight.

11	June 25, 1907, about 1 a. m.	Detroit, Mich	Russel Wheel & Foundry Co.	Detroit City Gas Co	Detroit City Gas Co. building.	Building dynamited during erection of steelwork; buildings in vicinity also damaged.
12	September, 1907	Cleveland, Ohio	American Bridge Co	American Steel & Wire Co.	American Steel & Wire Co. plant.	Hoisting engine totally destroyed by dynamite.
13	Oct. 30, 1907	Youngstown, Ohio	Youngstown Construction Co.	Baltimore & Ohio R. R	Railroad bridge	Bridge slightly damaged by explosion.
14	Dec. 23, 1907	Near Harrison, N. J	Brann & Stuart Co	Pennsylvania R. R	Railroad bridge over Newark branch of Erie R. R.	Girder and floor of bridge damaged by explosion; about $2,000 damage.
15	Dec. 31, 1907, between 7 and 8 p. m.	Cleveland, Ohio (?) Parma Road.	Lucius Co	Cleveland Short Line R. R.	Bridge	2 tons of material damaged so they had to be replaced; loss, $500.
16	Dec. 31, 1907, between 7 and 8.	Mill Creek	do	Lake Erie & Pittsburgh Ry.	Viaduct	10 tons of material damaged so they had to be replaced; loss, $1,200.
17	Jan. 17, 1908	Cleveland, Ohio, Eagle Avenue.	Interstate Engineering Co.	Big Four R. R. (?)	Bridge	Girders for above bridge in railroad yards damaged by dynamite; car and surrounding property also damaged.
18	Jan. 31, 1908	Elsdon, Ill	McClintic-Marshall Construction Co.		Building	One column damaged by explosion of dynamite and couple of girts bent; damage, $150.
19	Feb. 3, 1908, about 10.30 p. m.	Pelham, N. Y	American Bridge Co	City of New York	Scherzer Drawbridge over Eastchester Bay.	Guy clamps on 4 guys which were used to hold the draw were removed, causing draw to roll forward and fall into the bay; damage between $5,000 and $10,000.
20	Feb. 17, 1908	Clinton, Iowa	Wisconsin Bridge & Iron Co.	Chicago & North Western Ry. Co.	Double-track bridge over Mississippi River.	30 sticks of dynamite placed in various parts of derrick car; 1 lot exploded, rest being frozen; damage, about $2,000.
21	Mar. 18, 1908	Chicago, Ill., Buena Park.	Pittsburgh Construction Co.	Chicago, Milwaukee & St. Paul R. R.		Derrick car and surrounding property considerably damaged by dynamite.
22	Mar. 25, 1908, a. m	Perth Amboy, N. J	Pennsylvania Steel Co		Drawbridge over Raritan River.	Bridge damaged by dynamite to extent of about $1,500.
23	Mar. 25, 1908, about 12.15 a. m.	Near Bradshaw, Md	Youngstown Construction Co.	Baltimore & Ohio R. R	Railroad bridge	Traveler used in erection of this work partially destroyed by dynamite.
24	Apr. 1, 1908	New York City, N. Y	Pennsylvania Steel Co	City of New York	Blackwells Island Bridge	Wire falls rigged up for anchorage of 10-ton derrick, on top of temporary tower for removing temporary traveler, were loosened, but discovered in time to prevent accident.
25	Apr. 2, 1908, a. m	do	do	do	do	Manilla boom-fall line for 10-ton derrick on top of traveler cut; derrick was not being operated.
26	Apr. 5, 1908, p. m	New York City, N. Y., Chelsea Piers.	McClintic-Marshall Construction Co.	do	Pier 58, North River	Housing crane damaged by dynamite and engine demolished; damage, from $500 to $1,000.
27	Apr. 9, 1908, p. m	Near West Farms Station, N. Y.	Lewis F. Shoemaker & Co.		Highway bridge, Tremont Avenue.	Guy clamps on wire guys on 60-ton derrick removed, causing mast of derrick to topple over; depredation discovered just in time to prevent accident to passenger train.

List of depredations, dynamitings, attempts, etc.—Continued.

No.	Date.	Location.	Contractor.	Owner.	Nature of work.	Nature and extent of damage.
28	Apr. 13, 1908, about 11 p. m.	Philadelphia, Pa., Federal Yard of Pennsylvania R. R.	American Bridge Co	Delaware Avenue Elevated R. R.	Elevated road.....	Material for job damaged by two charges of dynamite to extent of about $1,000.
29	Apr. 26, 1908, a. m.....	Fall River, Mass.....	.....do.....	Bristol County, Mass.....	Slades Ferry Bridge over Taunton River.	Two spans damaged by dynamite; loss, between $2,000 and $3,000.
30	May 3, 1908 (Sunday), about 12 p. m.	Dayton, Ohio.....	.....do.....	Cincinnati, Hamilton & Dayton Railway.	Railroad bridge over Miami River.	Derrick car damaged by dynamite.
31	May 21, 1908, p. m.....	New York, N. Y.....	Pennsylvania Steel Co..	New York, New Haven & Hartford R. R.	Scherzer Drawbridge over Bronx River.	Attempt made to dynamite bridge; suitcase found in river contained 103 sticks of dynamite and 2 coils of fuse.
32	May 22, 1908, a. m.....	Baychester, N. Y.....	Lewis F. Shoemaker & Co.	.....do.....	Highway bridge.....	Bridge damaged by dynamite to extent of about $1,500.
33	May 24, 1908, 1.30 a. m..	Aiken, Md.....	Youngstown Construction Co.	Baltimore & Ohio R. R...	Bridge.....	Attempt made to dynamite job; 5 sticks of dynamite found—dropped by man seen running away from job.
34	June 2, 1908, a. m.....	Perryville, Md.....	American Bridge Co.....	.....do.....	Railroad bridge over Susquehanna River.	Attempt made to dynamite job by 4 men, who ran away, leaving dynamite behind.
35	June 2, 1908, p. m.....	Cleveland, Ohio.....	.....	Van Dorn Iron Works Co..	Plant of Van Dorn Iron Works Co.	20-ton steel derrick wrecked, wall of steel building twisted out of shape and part of railroad siding torn out by dynamite; loss, $500; 14 unexploded sticks of dynamite found, attached to partly burned fuse.
36	June 15, 1908, 10.30 p.m.	Somerset, Mass.....	Phoenix Bridge Co.....	New York, New Haven & Hartford R. R.	Taunton River bridge.....	Material for above bridge, in storage yard, dynamited; damage, about $1,000.
37	July 1, 1908, about 2.45 a. m.	Buffalo, N. Y.....	McClintic-Marshall Construction Co.	Lehigh Valley R. R.....	Railroad bridge.....	Girders damaged to extent of about $1,500 by two charges of dynamite; explosion occurred few minutes prior to arrival of passenger train, which was stopped at end of bridge within 200 feet of where explosion occurred.
38	Aug. 6, 1908, — p. m....	Chicago, Ill., One hundred and thirty-third Street.	American Bridge Co.....	Illinois Central R. R.....	Railroad bridge over Calumet River.	Bridge damaged by dynamite explosion.
39	Aug. 6, 1908.....	Cincinnati, Ohio.....	Grainger Construction Co.	.....	Harrison Avenue Viaduct.	Viaduct damaged by either dynamite or nitroglycerin.
40	Aug. 9, 1908, 2 a. m.....	St. Louis, Mo.....	.....	.....	Eighteenth Street Bridge, being repaired.	Two charges of dynamite exploded on bridge, which was being repaired by nonunion men.
41	Oct. 15, 1908.....	Holyoke, Mass.....	Lewis F. Shoemaker & Co.	New York, New Haven & Hartford R. R.	Plate girder bridge.....	Attempt made to dynamite bridge; watchman discovered burning fuse, and put it out.
42	Nov. 30, 1908, 7.05 p. m..	Cleveland, Ohio.....	Pittsburgh Construction Co.	Wheeling & Lake Erie R.R.	Railroad bridge.....	Concrete pedestal and column wrecked by dynamite; damage, about $500.

43	Mar. 18, 1909	Indiana Harbor, Ind	Pittsburgh Construction Co.			Car of steel dynamited near job; damage about $100.
44	Mar. 24, 1909, about 1 a. m.	do	do			Two packages of dynamite, with fuse attached, were thrown from a Lake Shore freight train, passing work of above company; no damage.
45	Mar. 27, 1909	Boston, Mass	Geo. W. Harvey Co		New opera house	Southeast side of building destroyed by dynamite; being erected by non-union men.
46	Mar. 31, 1909, about 3 a. m.	Hoboken, N. J	McClintic-Marshall Construction Co.	City of Hoboken	Viaduct	Columns and other parts of bridge wrecked by dynamite; also several buildings near by; 5 or 6 people injured; damage, $1,000.
47	Apr. 29, 1909	Kansas City, Mo	A. M. Blodgett Construction Co.			Derrick car dynamited; damage slight.
48	May 9, 1909	Cincinnati, Ohio	Pittsburgh Construction Co.	Cincinnati Southern R. R.	Railroad bridge	Charge of dynamite exploded; damage slight.
49	May 24, 1909, 8.15 p. m., Monday.	do	do	do	do	2 charges of dynamite placed on top of pier on which girders were resting; damage, $300.
50	June 7, 1909	Buffalo, N. Y., East Ferry Street.		New York Central & Hudson River R. R.	Railroad bridge, completed.	Bridge dynamited; several thousand dollars damage done. It is thought that a bridge being erected by the McCain Construction Co. (who did not employ union labor exclusively) was the one intended to be dynamited.
51	June 26, 1909	Steubenville, Ohio	Seaboard Construction Co.	Pennsylvania R. R	Bridge	Material for bridge, on cars, dynamited; estimated damage, $2,500.
52	do	Kansas City, Mo., Main Street.	A. M. Blodgett Construction Co.		Viaduct	One pier dynamited; loss, about $75.
53	July 9, 1909	Detroit, Mich., Beecher Avenue.		Whitehead & Kales	Plant of company	Suitcase containing guncotton placed under pile of steel girders in yard of plant; explosion destroyed girders and did considerable damage to nearby factories, etc.
54	Aug. 12, 1909, about 12 m.	Cincinnati, Ohio	Pittsburgh Construction Co.	Cincinnati Southern Ry	Viaduct	Two girders in street along route of viaduct damaged by dynamite; damage, $600 to $700.
55	Aug. 16, 1909, 12.05 a. m.	Bronx, New York City, One hundred and fifty-sixth Street.	do	New York, New Haven & Hartford R. R.	Railroad bridge, No. 211	Two angles bent by explosion of dynamite; damage, about $20.
56	Sept. 5, 1909, p. m	Hoboken, N. J., Fourteenth Street.	McClintic-Marshall Construction Co.	City of Hoboken	Viaduct	15 sticks of dynamite and fuse discovered after 4 men were frightened away from the job.
57	Sept. 14, 1909, p. m	Buffalo, N. Y., near corner of Elk and Michigan Streets.	McCain Construction Co		Viaduct over New York Central & Hudson River R. R. tracks.	Derrick car and track destroyed by dynamite. (See explosion of June 7, 1909.)
58	Oct. 6, 1909	Buffalo, N. Y., near corner of Elk and Michigan Streets.	do		Viaduct over New York Central & Hudson River R. R. tracks.	One column damaged by dynamite; also adjoining property and windows within block.

List of depredations, dynamitings, attempts, etc.—Continued.

No.	Date.	Location.	Contractor.	Owner.	Nature of work.	Nature and extent of damage.
59	Oct. 25, 1909, a. m.	Indianapolis, Ind.	Albert Von Spreckelsen.		Central Union Exchange Building; public library building; Von Spreckelsen planing mill; Von Spreckelsen barn.	Above buildings all dynamited at practically the same time; total damage about $15,000. Dynamitings followed employment of non-union men.
60	Nov. 4, 1909, p. m.	Cleveland, Ohio, Cuyahoga River.	Brown Hoisting & Machinery Co.	Corrigan-McKinney Co.	Crane	Crane, freight cars, tracks, and foundations in neighborhood wrecked by dynamite. Watchman narrowly escaped death; damage, $40,000.
61	Nov. 21, 1909, Sunday, a. m.	Green Bay, Wis.	Wisconsin Bridge & Iron Co.			Car of steel dynamited.
62	Dec. 29, 1909, Wednesday, about 3.35 a. m.	Salt Lake City, Utah.	R. D. Jones, subcontractor for American Bridge Co.		Utah Hotel	2 heavy charges of dynamite exploded in building.
63	Mar. 27, 1910 (Sunday), 9.30 p. m.	Indiana Harbor, Ind.	McClintic-Marshall Construction Co.	American Steel Foundries Co.	American Steel Foundries Co. plant.	2 columns and bases destroyed by bombs with time fuses attached; damage, about $500.
64	Apr. 5, 1910	New Castle, Ind.		Pan-American Bridge Co.	Plant of Pan-American Bridge Co.	Plant dynamited.
65	Apr. 18, 1910, a. m.	Salt Lake City, Utah.	R. D. Jones, subcontractor for American Bridge Co.		Utah Hotel	Dynamite exploded under framework of hotel; steelwork only slightly damaged.
66	Apr. 19, 1910	Clinton, Ind.		Chicago & Eastern Illinois R. R.	Railroad bridge over Wabash River.	2 explosions of dynamite wrecked 2 piers of bridge and shattered stonework and iron braces to such an extent that traffic was abandoned.
67	Apr. 19, 1910, 11.30 p. m.	Mount Vernon, Ill.	McClintic-Marshall Construction Co.	Mount Vernon Car & Manufacturing Co.	Power house	Hoisting engine completely destroyed by explosion; locomotive crane also damaged.
68	May 24, 1910, 1 a. m.	New York City, Two hundred and twenty-third Street, near Broadway.	Pennsylvania Steel Co.		Viaduct	Material stored on dock damaged by dynamite; loss between $700 and $800. After the explosion parts of an alarm clock, leather suitcase, and dry battery were found.
69	June 4, 1910, 3.30 a. m.	Davenport, Iowa.	McClintic-Marshall Construction Co.	Davenport Locomotive Works.	Machine shop	2 columns damaged by explosion.
70	June 4, 1910, 12 p. m.	Peoria, Ill.	do	Peoria & Pekin Union Ry.	Bridge	2 girders damaged by dynamite.
71	June 22, 1910, 2 a. m.	Cleveland, Ohio.	do	Cuyahoga County	Denison-Harvard Viaduct.	Several trusses to be used in above viaduct wrecked by dynamite; loss, $100.
72	July 4, 1910	Akron, Ohio.	The Burger Iron Co.	Diamond Rubber Co.	Building	Dynamite explosion; damage slight.
73	July 9, 1910, 2.45 and 3.20 a. m.	Jersey City, N. J. (Greenville), foot of Bidwell Avenue.	Phoenix Bridge Co.	Lehigh Valley R. R.	Viaduct	2 explosions wrecked 2 legs of tower supporting viaduct; about $1,000 damage.
74	July 15, 1910, 2 a. m.	Pittsburgh, Pa., West Carson Street (McKees Rocks).	McClintic-Marshall Construction Co.	West Side Belt R. R.	Trestlework	2 concrete piers and floor beam shattered by dynamite; damage, about $800.

75	July 21, 1910, about 12 p. m.	Omaha, Nebr.	Wisconsin Bridge & Iron Co.	Omaha & Council Bluffs Street Ry.	Power plant	2 beams destroyed by explosion; some steel bent; damage between $125 and $150.
76	Aug. 1, 1910, 12 p. m.; Aug. 2, 1910, 12.30 a. m.	Superior, Wis.	Heyl & Patterson	Philadelphia & Reading Coal & Iron Co.	Unloading rig on new Connors Point Dock.	Truck destroyed by explosion.
77	Aug. 20, 1910	Oakland, Cal.		Pacific Coast Lumber Co.	Mill of Pacific Coast Lumber Co.	Wrecked by exploding dynamite. (Fourth time in last 2 years this mill has been wrecked.)
78	Aug. 23, 1910, 8.30 p. m.	Kansas City, Mo.	McClintic-Marshall Construction Co.		Railroad bridge	Material in yards at foot of Holmes Street dynamited; damage, about $200.
79	Aug. 31, 1910	Seattle, Wash.			Office building	Wrecked by dynamite.
80	Sept. 4, 1910	Peoria, Ill.		Lucas Bridge & Iron Co.	Plant	3 explosions of dynamite; plant badly damaged; also 6 adjacent buildings; night watchman seriously injured.
81	do	East Peoria, Ill.	McClintic-Marshall Construction Co.	Peoria & Pekin Union Ry.	Railroad bridge	2 carloads of steel girders to be used in construction of bridge, dynamited; only 2 girders damaged.
82	Sept. 15, 1910, about 10 p. m.	Chicago, Ill.		Winslow Bros.	Winslow Bros. plant	Woodwork, windows, and masonry completely shattered by explosion of bomb with time fuse placed in entrance to building. Had explosion occurred few minutes later, night watchman would have been killed. (Explosion followed visit of delegation from Chicago Federation of Labor.)
83	Sept. 27, 1910, about 1 a. m.	Nicetown, Pa.	American Bridge Co.	Philadelphia & Reading Ry.	Grade crossing bridges	Traveler dynamited; little damage done.
84	Oct. 1, 1910	Los Angeles, Cal.		Los Angeles Times	Los Angeles Times plant	Completely destroyed by explosion of dynamite and fire; 21 lives lost. (Dynamite also found at residence of Gen. Harrison Gray Otis, proprietor of the Times, and at residence of Felix J. Zeehandlaar, secretary of the Merchants & Manufacturers' Association of Los Angeles.)
85	Oct. 10, 1910, a. m.	Worcester, Mass.	Boston Bridge Works	Boston & Albany R. R. (.)	Overhead street bridge	Dynamited; damage about $10.
86	Oct. 10, 1910	do	Phoenix Bridge Co.	do	Railroad bridge	Derrick car dynamited; several hundred dollars' damage.
87	Nov. 28 (?), 1910	West Philadelphia, Pa., Fifty-second and Ludlow streets.	Bergdoll & Pawling	West Philadelphia National Bank.	Bank building	2 charges of dynamite placed in derrick; damage about $25 or $30.
88	Dec. 25, 1910, Sunday, a. m.	Los Angeles, Cal.		Llewellyn Iron Works	Plant of Llewellyn Iron Works.	Attempt made to dynamite; very little damage done.
89	Dec. 30, 1910	Kansas City, Mo.		Walter Vanston's Furnace & Sheet Metal Works.	Plant	Partially wrecked by dynamite.
90	Jan. 29, 1911, 1.50 a. m.	Erie, Pa., on property of Pennsylvania R. R.	McCain Construction Co. (fabricator, McMyler Interstate Co.).	Susquehanna Coal Co.	Car dump	Damaged by 2 charges of nitroglycerin to extent of about $1,500.

List of depredations, dynamitings, attempts, etc.—Continued.

No.	Date.	Location.	Contractor.	Owner.	Nature of work.	Nature and extent of damage.
91	Feb. 24, 1911.....	South Chicago, Ill.....	Brown Hoist & Machinery Co.	Iroquois Iron Co.....	New $1,000,000 plant.....	Damaged by 2 explosions of dynamite.
92	Mar. 8, 1911, 12 p. m....	Springfield, Ill.....	McClintic-Marshall Construction Co.	McKinley Traction Co.....	Viaduct.....	2 explosions, one of which tore away span of viaduct, other damaged tipple of the Capital Coal Co. (Jeffries Manufacturing Co., contractors); total loss, $45,000. If wrecked bridge had fallen on Chicago & Alton tracks below, passenger train due at 12.30 would probably have been wrecked.
93	Mar. 16, 1911, shortly before midnight.	Milwaukee, Wis., Seventeenth Street and St. Paul Avenue.	Heyl & Patterson.....	Milwaukee-Western Fuel Co.	Unloading bridge, completed.	Unloading hoist almost totally wrecked by dynamite; $50,000 damage; steamer near dock damaged to extent of about $1,000; 2 explosions.
94	Mar. 20, 1911, 4 a. m....	French Lick, Ind.....	Lafayette Bridge Works.	Thos. Taggart, Indianapolis.	Addition to French Lick Springs Hotel.	Explosion of dynamite; damage slight.
95	Mar. 24, 1911.....	Omaha, Nebr.....	Caldwell & Drake Iron Works, Columbus, Ind.	Douglas County.....	County courthouse.....	Building seriously injured by 2 explosions of dynamite placed in basement.
96	.....do.....	Columbus, Ind.....	.....	Caldwell & Drake Manufacturing Co.	Plant of Caldwell & Drake Manufacturing Co.	Dynamited at about same time explosion in Omaha occurred. (See No. 95.)
97	Mar. 25, 1911, 8.37 p. m.	North Randall, Ohio....	Heyl & Patterson.....	Pickands & Mather.....	Ore conveyor, on right of way of Erie R. R.	Almost totally destroyed by explosion of nitroglycerin; $50,000 damage.
98	Apr. 2, 1911.....	South Bend, Ind., St. Peters Street.	Grand Trunk R. R.....	.....	Viaduct.....	Dynamited; $2,000 damage.
99	Apr. 4, 1911, 2 a. m.....	Springfield, Mass.....	A. E. Stephens Co., New York.	City of Springfield.....	Municipal building.....	Damaged by dynamite to extent of several thousand dollars.
100	Sept. 3, 1911, Sunday, 8.55 p. m.	Mount Vernon, N. Y., Columbus Avenue.	American Bridge Co.....	New York, New Haven & Hartford R. R. (New York, Westchester & Boston Co.).	Viaduct.....	Damaged by dynamite to extent of about $1,000.
101	Sept. 24, 1911, p. m.....	Cleveland, Ohio, Clark Avenue and Cuyahoga River.	Variety Iron & Steel Works (1907).	Cleveland Furnace Co.....	Coal conveyor, completed.	Attempt made to dynamite; 60 pounds of dynamite found, 200 feet of fuse, and revolver; dynamite also found under crane.
102	Oct. 16, 1911 about 2 a. m.	Gaviota, near Santa Barbara, Cal.	.....	Southern Pacific R. R....	Railroad bridge, completed 3 years ago by nonunion labor.	Attempt made to dynamite bridge just previous to time special train carrying President Taft passed over it; 59 sticks of dynamite and fuse found by watchman.

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LIMITING FEDERAL INJUNCTIONS

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

SIXTY-SECOND CONGRESS

SECOND SESSION

ON

H. R. 23635

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CODIFY, REVISE, AND AMEND THE LAWS RELATING TO THE JUDICIARY," APPROVED MARCH 3, 1911

Printed for the use of the Committee on the Judiciary

PART 4

WASHINGTON
GOVERNMENT PRINTING OFFICE
1912

COMMITTEE ON THE JUDICIARY.

UNITED STATES SENATE.

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AUGUSTUS O. BACON, Georgia.
CHARLES A. CULBERSON, Texas.
LEE S. OVERMAN, North Carolina.
ISIDOR RAYNER, Maryland.
THOMAS H. PAYNTER, Kentucky.
WILLIAM E. CHILTON, West Virginia.
JAMES A. O'GORMAN, New York.

EDMUND J. WELLS, *Clerk.*

SUBCOMMITTEE ON H. R. 23635.

ELIHU ROOT, New York, *Chairman.*

KNUTE NELSON, Minnesota.
GEORGE SUTHERLAND, Utah.

WILLIAM E. CHILTON, West Virginia.
JAMES A. O'GORMAN, New York.

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TUESDAY, JULY 9, 1912.

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 10.40 o'clock a. m.

Present: Senators Root (chairman), Nelson, Sutherland, and O'Gorman.

Senator ROOT. The subcommittee on bill H. R. 23635, commonly known as the anti-injunction bill, is in session and will be glad to hear any further remarks upon that bill, either for or against.

ARGUMENT OF F. C. DILLARD, ESQ., OF CHICAGO, ILL., COUNSEL OF THE ROCK ISLAND RAILWAY.

Mr. DILLARD. If it please you, Mr. Chairman and gentlemen of the committee, through your courtesy I appear by reason of my position as counsel of the Rock Island Railway to discuss this bill in connection with the bearing it may have particularly upon the railway interests of the country; to see, so far as I can, whether it is as regards those interests a good bill or a bad bill; to aid, so far as I can, the subcommittee in coming to a determination of whether or not, if it is enacted into a law, it will be a law making for the good of the railways or one to their hurt, and whether or not, if it shall be hurtful to the railways through its workings, it will be hurtful to the public at large.

It is always well for those who engage in a debate, though espousing opposing sides, to occupy in the beginning of it common ground. Equally it is well, when one is addressing a body whose judgment he hopes to influence to his views, if he and they can at the start occupy that common ground. In the very beginning, then, I shall state some propositions on which I think we shall all be agreed—some propositions as to which I think there can be no wide divergence of views when they are looked upon in a spirit of candor and fairness and with the intention of arriving at a correct judgment.

It is a truism that a railway is of a dual character. In one phase it is private property; in another phase, though you would probably go too far to call it property quasi public, it is charged with public duties. Likewise those duties with which it is charged in relation to the public are of a dual character. It owes, first, a duty to the public generally; it owes, second, a duty directly to the Government. Its duty as owed to the public generally is to furnish at reasonable rates prompt and safe transportation for passengers and for freight. This duty is laid upon it by the law so imperatively that it is not excused from the performance of it except by the act of God or the public enemy. The duty which it owes directly to the Government is the duty of the carriage of munitions of war, carriage of troops, and carriage of the mails. These propositions, I say, will not be denied. This is the common ground which we all occupy at the beginning of this argument and from which we make our start to endeavor to arrive at a just, a true, a fair, a righteous conclusion as to the merits of this bill.

I think it will not be denied—I know it will not be denied—by any member of this subcommittee that, in so far as a railway owns its railway and equipment as private property, that property is entitled to the same protection from the law as any other character of private property. On that phase of the question I shall not greatly dwell. I prefer rather to inquire what will be the effect of this bill in its workings upon the railway company in the duties which it owes to the public.

There are also some principles of equity jurisprudence and practice which until later years have not been questioned and which, I believe, are not yet questioned by lawyers who believe in the stability of the law—principles of the wisdom and righteousness of which most lawyers are convinced. I shall not in applying those principles to the discussion of this bill wander along the border line on one side of which it ought to be held that an injunction should be granted, on the other side of which it ought to be held that an injunction should be refused; nor shall I go into those "twilight zones" between the rights of property and the rights of men, if indeed there is difference between such rights. But in the discussion of this bill I shall endeavor to rely upon principles of equity which we have all, in the days that have gone by, recognized as sound, as wise, as preservative of both the rights of property and the rights of man. There are only three to which I need call attention. This bill, as I think, runs counter to many other well-established and wise principles of equity, and I would not minimize them for a moment, but it is my wish to treat the bill in the large and along broad lines and to place the discussion, as I have said, so far as I can upon principles as to which none, as I see it, ought to disagree, as to which none of us here, as I believe, will disagree.

I find, then, sufficient for our discussion, three well-recognized principles of equity, jurisprudence, and practice. The first is this, that equity, where the law does not afford adequate relief, will extend its arm for the prevention of conspiracy. Where a number endeavor to break up the business of another, engaged in the peaceful pursuit of his occupation, where he has been guilty of no wrong in law, equity will not permit others to gather together and form a conspiracy against him in the endeavor to destroy that business. Gentlemen of the committee, have you thought of one thing, that so absolutely abhorrent to our law is the idea of a conspiracy that even after the overt act has been done, even after the crime which the conspiracy was inaugurated to foster and bring about has been committed, yet if the punishment for that crime is only a fine of $100, so abhorrent, I say, to the law is conspiracy that the law may go back of the committed crime to the conspiracy and visit upon the conspirators the far heavier punishment it has provided against their conspiracy, even sending them to the penitentiary? Whether or not that is not a graver punishment than should be visited, I am not here now to discuss, but it emphasizes this fact, that the laws of this land do stand with uplifted hands, with protesting voice against a conspiracy as being subversive of law and good order.

The next principle of equity to which I wish to direct the attention of the subcommittee is this: It has been esteemed one of the glories of our law that a man's house is his castle. Law writers, historians,

and essayists have grown eloquent in declaring that a man may stand at his threshold and say, "Thus far shalt thou come, but no farther," and may even use force to keep from his premises him who would force the door and trespass within the sanctuary of the house. Even a railway has, and has ever been recognized to have, the right to its premises free from trespassers. It owes certain duties to the public. In the fulfillment of these duties it must give right of way to the public; but when the public comes, not for the purpose of doing business, not for the purpose of using those premises in the transaction of those things which it may do with a carrier, but as a trespasser—when it comes to overrun the premises and use them for its own private ends, then the rights of a railway are similar to the rights of an individual. Therefore, it has for a long time been recognized, and I submit to you wisely recognized, that the law will interpose an injunction to prevent a continuing trespass upon the premises of another; that it will ordinarily interpose its power of injunction to prevent a trespass when the law gives no adequate remedy for the trespass. I think we will all be agreed upon that proposition.

Now, one other principle of equity practice, one founded in wisdom, one necessary to the accomplishment of those things for which the equitable jurisdiction is invoked, is this: Where there is a large class and it is impracticable to obtain service upon all members of the class—nay, more, where it is impossible even to sue all members of the class—equity permits a representative number of that class to be made a party to the suit, and the decree which is entered becomes binding on the class at large, except in certain instances not now necessary to notice. So it has long been held by the courts that if there is a large body of men who are endeavoring to trespass upon another, who are conspiring to overrun his premises, to destroy his business, and it is impossible to reach all of those men, you may bring in certain representatives of the class, your injunction may issue, and that injunction when issued binds those directly served, and so far binds others who actually know of it that they are by it forbidden to do the things which have been enjoined and willfully violate the court's decree.

That, it seems to me, is as it should be. Suppose there are a thousand men who are coming to tear down my house, who are coming to devastate my lands, and that they come in the shadows—in the nighttime. I may reach 100 of them, but not the thousand. If I do reach the hundred and serve them, if equity does declare that they are forbidden to go upon my premises, that they are forbidden to raze the house, that they are forbidden to devastate the land, ought it to be that the injunction should speak only to the 100, and that the other 900, though knowing of it, may do the forbidden things? I think not.

With these principles I trust conceded, let us come to the discussion of this bill. Before speaking of it in the particular I desire to speak of it in a general way. It would be uncandid in any of us to deny that, so far as railways are concerned, the effect, if not the purpose, of this bill will be, in great measure, to legalize strikes. We may even believe—and I say it with all due respect to every Member of Congress who has supported it—I think we may believe without any

disrespect to anyone—that the purpose of it is, in a measure at least, to legalize strikes.

If that states too strongly its purpose, certainly its effect is to permit strikes to become more effective in the accomplishment of the purposes for which they were inaugurated than they otherwise would be. If that be true, speaking now of the bill in a general way, it seems to me that anyone who declares it to be a good bill and a wise bill has laid upon him the burden of proof to show that a strike is a good thing. If it be true—and of that there is no denial—that the railway company owes certain duties to the public; if it be true—and of that there can be no denial—that the purpose of a strike is oftentimes to keep a railway company from performing those duties, and thereby lead the owners of the railway to submit to the demands of the strikers, I say, if that be true—and of it there can be no denial—then it seems to me that anyone who calls this a good bill and a wise bill has laid upon him the burden of proof to show that a strike, the purpose of which is to prevent the carrier from performing his duties to the public and thereby force it to yield to the demands of the strikers, is a good thing and a wise thing, and that the law should aid the accomplishment of this purpose.

I lay down a general proposition. Let us see if we are agreed upon it. Now, mark, I do not speak of strikes generally; I do not inquire, for the moment, whether there are good strikes and bad strikes—at times strikes which ought to prevail, and at other times strikes which ought not to prevail—but I lay down this general proposition: In any given case an injunction against a strike is either right or it is wrong. Mark you, I say in a given case. If the injunction is wrong, it ought not to be granted at all, because it is for the prevention of a thing which is right. If the injunction is right, if it should be granted, if the conditions are such that equity ought to put forth its strong hand to stop the threatened act, then any law the effect of which is to curtail the powers of the court, the effect of which is to render nugatory the injunction, the effect of which is to weaken it or to cripple it, is an unwise law and a bad law.

What is the purpose of this bill? What its object? What its intent? Let us meet it face to face and candidly. The bill presupposes that in certain instances and for certain purposes an injunction should issue. The effect of the bill is to weaken the writ, to cripple its enforcement, to render nugatory the powers of the court. If that is true, the bill should not pass. The bill has already been read time and again by the committee, so I need not ask the reading of it, but I do ask that the committee call to mind all of its provisions, its purposes, perhaps, its effects certainly, and see if the statement which I have made is not true. If it is true that the strike is wrong and therefore has been enjoined; that the injunction has been issued, and rightly issued, for the purpose of putting down the strike; if it is true that the effect of the bill is to weaken and cripple the injunction and prevent the enforcement of the writ, does it not follow with the cold precision of a mathematical demonstration that the bill is a bad bill and should not become a law?

I can not, in the time in which I am willing to trespass upon the patience and courtesy of the committee, go through the bill in close analysis, nor shall I endeavor to do so. But to some parts of it I wish to call attention.

The first part to which I direct the attention of the subcommittee is this, that no matter what are the exigencies of the case, no interlocutory injunction can issue without previous notice to those sought to be enjoined. Let me not be misunderstood here. I do not want to appear before this committee as an advocate of indiscriminate injunctions. I by no means want to appear as an advocate of indiscriminate ex parte injunctions. I believe wherever it is practicable, notice should be given, and that a hearing should be had. But what is this bill? What may be held to be its meaning? No interlocutory injunction, no matter what the exigency, shall issue except after notice to those who are to be enjoined. Does this first section, 263, mean that only those who have had notice, that only those who have been served, shall be bound by the decree? If that is the construction to be given it, then in that far that part of the bill is wrong. I shall presently notice it further in connection with what is said in section 266 B.

But in order that the evil of forbidding an interlocutory injunction might not be as potent as it otherwise would be, the bill provides for a restraining order under certain circumstances, and I shall notice this provision and the effect of it more particularly in a few moments. Before doing that, I wish to say this: I have said that if the injunction ought to have issued, if it was right that it should issue, then the means by which it may be enforced should not be circumscribed. If it was right that it should issue, then old, well established principles of law should not be overthrown, but in so far as fair and just, if there is any change that is made in them by statutory enactment, they ought to be strengthened.

This section provides that if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury shall follow a temporary restraining order may issue. It has been held in some jurisdictions that declaring that a thing shall appear to the satisfaction of a jury is almost equivalent to saying that it shall appear to them beyond a reasonable doubt. Whether or not this law will be so construed, I do not know.

Senator O'GORMAN. Where was that rule applied?

Mr. DILLARD. It has been applied in the State of Texas and some other jurisdictions, if my memory is not at fault.

Senator O'GORMAN. There is no danger of that rule being extended, or adopted either, in other jurisdictions.

Mr. DILLARD. I would hope not. Shall I state the special circumstances under which it was applied, or shall I pass from this statement?

Senator O'GORMAN. You might go on.

Mr. DILLARD. I trust it will not be extended; I hope it will not be. I desire to call attention to the fact, however, in passing, and in doing so to say this: The purpose of the injunction sought is, we will say, for the preservation of property. This being true, if it appears to the judge by a preponderance of the evidence that irreparable injury is likely to result, that property is likely to be destroyed, then it would seem to me sufficient foundation has been laid for the issuance of the injunction.

Senator O'GORMAN. I have always understood that to be the accepted rule in all jurisdictions, and the case you speak of seems to be the exception.

Mr. DILLARD. I am sure the rule, as I stated it, has been held in several jurisdictions. I am aware there are jurisdictions, as the Senator says, in which the contrary rule has been held, but I desired to call attention to what has happened in the construction of the word "satisfaction."

There are some matters, possibly of minor importance as compared with some other provisions of the bill, to which I wish to direct the attention of the committee as showing that the effect of the bill is to weaken the enjoining powers of the court. One provision is:

> Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury, and state why it is irreparable.

How far must the definition go? If it be held that the only purpose of the definition is that the man who has been enjoined shall know what he has been enjoined from doing, why must the order state why the injury is irreparable? Suppose the order shall say that the striker must not interfere with the running of freight trains on a certain road, that he must not do this by any personal overt act. This probably does not sufficiently define the contemplated injury. Suppose it goes further and says that he must not interfere with the running of them by throwing switches, then may he so interfere by killing engines?

But if it be right to say that the order shall define the injury so that the party enjoined may know the thing that he is not to do, what is the purpose, what the object, of providing that the writ shall state why the injury is irreparable? Is it to give a loophole by which the man who is enjoined may violate the injunctio and escape punishment by saying, "The order does not comply with the law; it defines the injury which is not to be done, but it does not state why it is irreparable"?

Now I come to view more specifically the seven-day provision, and it does seem to me that it is demonstrable that no such provision as that should ever pass into any law. No interlocutory and no permanent injunction can issue without previous notice to those who are to be enjoined; but if it appears to the satisfaction of the judge that there is injury threatened which is likely to be immediate and irreparable and to be done before an interlocutory order or final injunction can issue, the judge may, without notice, issue a restraining order. But that restraining order must expire of its own limitation after seven days, and at an earlier period if such earlier period is fixed by the judge. If there shall have been notice served on any of the strikers, the judge can not extend the order unless service is had anew on those already served. Let us instance a case. I to-day appe r before the court and ask for an injunction against a body of strikers who are threatening to injure my premises, to destroy my traffic. The judge sets the time of hearing 10 days hence, and service is had, we will say, upon some 25 or 50 men. Later in the day I find that these strikers are going to inflict upon me an injury which is irreparable and immediate. I again go before the judge and secure from him a temporary restraining order, which is served on these same men. The seven days expire. The judge can not extend the order unless service is had anew upon those men who have already been served. Need I say to this committee—I know I need not, for they know it as well as I, as we all know it—that when men are engaged in a strike

they will abscond for the purpose of avoiding the process of a court? What happens? The men served have fled the jurisdiction and can not be again served; the seven days have expired, but the restraining order can not be extended because the service required by the bill can not be had; it is three days before an interlocutory injunction can be granted, because that can not issue until after the hearing, which, under the notice, is to be held on the tenth day. Here is a hiatus of three days. In these three days disorder may run riot, and just so long as the rioters stay sufficiently far from the criminal law not to invite and have visited upon them immediate arrest, just that long are they safe; and no matter what may be done, the court can not stop their actions by process of injunction, under the direct declaration of the law.

Senator NELSON. Suppose no service can be effected within the first seven days; what then?

Mr. DILLARD. As to whether the judge could——

Senator NELSON. No. A temporary restraining order is issued which expires at the end of seven days from entry. Suppose no service can be made upon any of the defendants within that time; what then?

Mr. DILLARD. There the bill does not say, and it is a question of construction whether or not, when no service has been made, if he should renew that restraining order.

Senator NELSON. No, here is the point: Suppose, after the temporary restraining order has been entered, and during the seven days, no service can be effected on any of the defendants; they can not be found, can not be served with process; what will be the effect of that temporary restraining order pending that time? What good does it accomplish?

Mr. DILLARD. It accomplishes this, as I stated a moment ago, and this is leading up to what I shall say in a moment, that if a certain part of a class is served, that would bind the whole number who have knowledge of it——

Senator NELSON. Suppose none of the class is served?

Mr. DILLARD. I think I am coming to answer your question.

Senator NELSON. Suppose none are served?

Mr. DILLARD. I shall answer that, if you please. It has been held that when a court has issued its writ of injunction, people having actual notice of the existence of that injunction who wilfully do the things which the decree of the court and the order of injunction forbid, are subject to punishment by the court. It is not necessary for me at this time to enter into a technical discussion of the differences between punishment for contempt visited by a court in the protection of the rights of litigants, and punishment for contempt administered by the court in the protection of its own dignity and its own orders; but in the protection of its own dignity and in the protection of its own orders, a court of equity will not permit, when it has issued an injunction, that a man who actually knows of it shall, by secreting himself, do the things which the injunction forbids, and when called before the court to be punished for contempt, say, "I knew of the injunction; I knew my act was wrong; I knew I was violating the order of the court; I knew I was in contempt of the order, and yet I

am free of punishment because I had fled where no process could be served on me." In addition to that, there is this practical view: It is hardly to be supposed that where there is an immense body of men, all of whom are jointly engaged in doing a wrong, all will flee so that there can be service on none of them.

Senator SUTHERLAND. Did I understand you to express doubt as to whether or not the seven days' period of time could be extended by an order of the court where none of the parties had been served?

Mr. DILLARD. Yes, sir. If I remember the bill rightly, it says:

> Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any.

Senator SUTHERLAND. That last phrase, "if any," would very plainly imply that if there were none to be served, then the extension would be made anyhow.

Senator NELSON. On good cause shown.

Mr. DILLARD. That was the idea I was trying to convey, that that power would seem to be in the court if there had been no service, but where there had been service there could be no extension without service anew on those formerly served.

Senator SUTHERLAND. The language is, "unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any." If there are any who have been previously served, the converse of that must be true. If there were none to be served, the time may be extended in any event.

Mr. DILLARD. Yes; I take it in that way. I think that would be the meaning of it, and therefore the less diligent you are the greater the protection extended.

Senator SUTHERLAND. Before you pass to another matter, there is another thing you said that I do not quite understand. I understood you to say that this law would require the order of injunction to state how the injury was to be effected; that is, by forbidding, for example, the injury by throwing switches, and so on. Where do you find any language in the bill that requires that to be stated?

Senator NELSON. Line 16, "shall define the injury."

Senator SUTHERLAND. Shall define the injury, but not the way in which the injury is to be effected.

Mr. DILLARD. I am afraid I did not make myself clear. That is to be taken in connection with section 266 B. What I desired to make clear was this: Here it is declared that the order shall define the injury and state why it is irreparable. Section 266 B declares that the restraining order or injunction shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail the act or acts sought to be restrained.

Senator SUTHERLAND. That would seem to cover it.

Mr. DILLARD. I did not read that, because I said I did not want to go too much into detail, and I stated that that was open to construction. The point I am endeavoring to make and emphasize is that it seems that the purpose of the bill is to so circumscribe the writ,

to so call for definitions, for details, and for declarations of irreparable injury, and why irreparable, as to weaken the power of the court.

Senator NELSON. In other words, it would lead to this: An order might specify that A B is restrained from knocking a man down with a club, but he is not restrained from shooting him.

Mr. DILLARD. It might do that. Or, to take the illustration I gave a few minutes ago, it might say you must not stop the running of freight trains by throwing switches, but because it did not also specify killing engines, the reasonable detail contemplated by the law might not be complied with, and the main thing of stopping the trains would be lost sight of. If they were stopped by deadening the engines, this act would not have been enjoined or he who deadened them in contempt of the order. The committee remembers the old maxim we all learned in our law horn books when commencing the study of law, that the inclusion of one thing is the exclusion of another; and because this bill calls for reasonable detail, the very fact that you try to detail the acts sought to be enjoined, leaves other acts to be done which may not be embraced in the order of injunction. No one can anticipate all the acts which ingenuity may conceive to interfere with the running of trains and the conduct of traffic.

Senator NELSON. May not those words refer to the ultimate act, and not to the instrumentality by which the ultimate act is accomplished?

Mr. DILLARD. Within the range of possibility that is true, and I hope the courts will so construe them; but when we remember the rule of construction of statutes, that we must look to the old law, to the mischief, and to the remedy, since in the old law the injunction ran against ultimate acts, and since this law provides that the acts to be enjoined must be described in reasonable detail, there is grave fear that the courts will hold that a writ speaking to the ultimate acts is not good, but that it must speak to the special acts.

Now, there is another thing in section 266 B, to which I want to call attention in most general terms in passing, and that is this: The injunction is to be binding only upon the parties, their agents, employees, and attorneys—I do not quote it word for word—or against those in active concert with them, and who have notice of it by personal service or otherwise. The insertion of the words "active concert," it seems to me, is dangerous. What is active concert? Let us look at the old law again. How does the writ ordinarily run? It runs against those who act in concert, against those who aid, against those who abet. Without pausing to dwell on the difference in meaning of these words, we well may ask, when you cut out the words "aid" and "abet," when you confine the injunction only to those engaged in active concert with the strikers, are you not again weakening the power of the court? Is some one yonder engaged in sympathetic strike in active concert? If sympathizers with strikers a hundred yards, or a thousand yards, or a mile from the property of the employer, fall upon workmen who are going to the works to take the place of strikers, and keep them from going, are these sympathizers in active concert with the strikers who are killing engines and throwing switches, and who, under the detail that is set forth in the

writ, have been forbidden to do these things? I think these words "active concert," especially when these words alone are used, are dangerous words.

Now, the last clause of the bill, it seems to me, is the most dangerous of any, and does more to weaken the courts than any part of the bill, as much as other parts of it seem to have this effect. The strikers are permitted by the last clause of the bill to go upon the premises of the railway company for the purpose of dissuading the employees from working there. Not only may they go by ones or twos, but they are permitted to assemble upon the premises in order that they may decoy away employees engaged in the peaceful pursuit of their daily labor. Suppose they do go only for a peaceful purpose; suppose they do go only to dissuade—and we all know that it is impossible to prevent more or less wrangling, and it may be even blows—but suppose they do go for a peaceful purpose; ought that to be permitted? Let us see.

I state this case to the committee. Here is a railway company. A body of employees, considering themselves aggrieved, have left their employment. The railway company thereupon employs new men to take their places. These new men go willingly, work willingly, are satisfied. The law says—and, note you, as I have already said, says imperatively—that the carrier is not excused from the duties it owes the public save by the act of God or the public enemy. It says, "You must carry these passengers; you must carry this freight"; and the Government says, "I have contracts with you for the carrying of the mail, and you must carry it." But certain employees who have been engaged in the performance of their duties, and by their labor have enabled the carrier to do the things which have been laid upon it, leave the premises and other men take their places. What does this bill say?

It says that that which has all the time been the law, which is hoary with age, and, I think I may say, has been marked with honor, "'That trespassers may be kept from your premises,' must no longer be the law. The Government lays upon you certain duties. Men are peacefully, peaceably engaged in enabling you to perform these duties; but you must open your doors, you must let down the bars, you must tear away the gates, and permit to come upon your premises men who come for the sole purpose of taking from you the employees whose work is necessary to the obedience of the commands the law gives you." I had almost felt tempted to say this seems a monstrosity in the law. The last three lines of the bill effectually tie the hands of the court in many instances where they should be stretched forth for the protection of property and give wide and dangerous license to strikers.

If the committee will bear with me for a while longer, I desire to call attention to some of the economic conditions which should, as I think, forbid the enactment of this bill into law. We have seen what are the duties of the carrier. There is no sort of doubt that the passage of this law in times of strike will greatly hamper the performance of those duties. So far as the railways are concerned as servants of the public or in their private capacity, is there anything in the present economic conditions which surround them calling for the enactment of a law of this character? I find that some time since the British

Board of Trade instituted an inquiry on the Continent and in the United States for the purpose of determining the cost of living and the income of wage earners in Great Britain as compared with like cost and income in the United States and on the Continent. That inquiry extended only to certain selected trades and did not embrace railway employees. Without going with tiresome detail into the figures it is worth while to say this: That it was found, speaking generally, so far as Great Britain was concerned, that the condition of workmen was far better there than on the Continent; so far as the United States was concerned as to the trades which were selected it appeared that the cost of living of English wage earners in these trades was in the ratio of 100 to 152 as compared with the cost of living of workers in the same trades in the United States; but the wages of the same workmen in the United States as compared with the wages of those in Great Britain were in the ratio of 230 to 100. The Bureau of Railway Economics of this country made comparisons for the purpose of determining the relative conditions of railway employees in England and in this country, and it reached the conclusion that while the cost of living in the United States of railway employees is about 50 per cent more than the cost of living of railway employees in England, yet the wage is more than twice as great.

Let us speak more specifically as to what the railways can stand in the nature of legislation which not only hampers them in the performance of their duties to the public but in so doing likewise tends to curtail their revenues. The same bureau, the Bureau of Railway Economics, to which I referred a few moments ago, made a comparison for the year 1911, as compared with the years 1909 and 1910, to discover the increase in the earnings of railway employees. Statistics for the entire railway mileage in the United States were not available at the time the figures were made, but statistics for about 188,000 miles were obtained, and doubtless if figures for the entire mileage of the Union had been in the hands of the bureau, the result would not have been appreciably different. The reading of many figures is always tiresome to him who has to listen to them, and I shall not read all I have before me, but I do desire to read a few of them and to direct the attention of the committee to the figures of 1911, as compared with the figures of 1909, because a good portion of these increases were in process of inauguaration, if I may use the expression, as early as 1909, and took place in 1910. The figures show what would have been the earnings for the same number of employees according to wages as paid in 1909, 1910, and 1911. I find that the wages of office clerks increased 5.4 per cent; of engine men, 7.8 per cent; of firemen, 10.5; of conductors, 9.6; other trainmen, 12.8; various trackmen, 8.7 per cent; and that the entire increase of 1911 over 1909 was 7.4 per cent.

Senator SUTHERLAND. You mean the average increase?

Mr. DILLARD. The average increase, yes; I thank you. Without further reading, I will leave this leaflet with the stenographer and ask him to copy it in the argument when printed.

The table referred to is as follows:

[From Bulletin 28, Bureau of Railway Economics.]

BY CLASSES FOR THE UNITED STATES.

Increased compensation to railway employees in 1911, due to advances in rates of pay.

[Increases in roman type. Decreases in *italics*.]

Class.	Total compensation, 1911.	Difference between compensation in 1911 and what that compensation would have been at rate of wages effective during—			
		1910		1909	
		Amount.	Per cent.	Amount.	Per cent.
General officers	$13,669,727	*$135,646*	*1.0*	$551,318	4.2
Other officers	17,852,412	*246,777*	*1.4*	*2,088*	(1)
General office clerks	53,873,729	1,252,563	2.4	2,769,872	5.4
Station agents	22,842,503	755,750	3.4	1,138,021	5.3
Other station men	81,038,692	2,912,948	3.7	3,788,193	4.9
Enginemen	79,636,834	3,945,320	5.2	5,791,868	7.8
Firemen	49,151,135	3,533,079	7.7	4,657,490	10.5
Conductors	54,077,929	2,828,366	5.5	4,746,785	9.6
Other trainmen	99,154,674	7,457,443	8.1	11,247,889	12.8
Machinists	43,714,414	1,330,545	3.1	2,648,127	6.4
Carpenters	41,151,335	1,080,337	2.7	2,172,422	5.6
Other shopmen	129,182,032	4,138,253	3.3	7,663,046	6.3
Section foremen	25,607,524	1,100,026	4.5	1,531,441	6.4
Other trackmen	115,662,828	2,877,371	2.6	9,279,486	8.7
Switch tenders, crossing tenders, and watchmen	19,359,983	715,827	3.8	569,676	3.0
Telegraph operators and dispatchers	30,236,595	1,348,022	4.7	1,709,745	6.0
Employees—account floating equipment	5,070,787	262,252	5.5	222,849	4.6
All other employees and laborers	123,994,116	6,713,143	5.7	8,811,538	7.7
Total	1,005,277,249	41,868,822	4.3	69,297,678	7.4

[1] Decrease of less than one-tenth of 1 per cent.

Mr. DILLARD. Speaking in absolute terms and in round numbers, taking the figures shown by the Interstate Commerce Commission, the following appears: In 1909 the wages paid employees on railways were $988,323,000; in 1910, $1,143,725,000; in 1911, $1,209,744,000. Again speaking in round numbers, the excess of 1911 over 1909 was more than $221,000,000; the excess of 1911 over 1910, $66,000,000. Let us see how these increases affect the railways. The bureau of economics uses what it describes as a traffic unit—that is, 1 ton moved 1 mile; 1 passenger 1 mile. It has combined these units for the purpose of determining the effectiveness of $1 of labor. In 1909, $1 of labor moved 254.81 traffic units; in 1910, it moved 251.70 traffic units; in 1911, only 238.25 traffic units. So wages have been increasing, but the effectiveness of $1 of labor has been decreasing.

Senator SUTHERLAND. Has it been decreasing, or has it remained practically stationary?

Mr. DILLARD. It has fallen from 254 to 238.

Senator SUTHERLAND. I know; but your wages have increased, so that $1 would not have the same relation to the unit.

Mr. DILLARD. It will not move as much. It is the same thing. Wages have gone up until for $1 paid out the same result does not come to the railway. The same traffic unit is not moved by the proportion of 254 to 238.

Senator SUTHERLAND. The workmen would remain as effective, but he would get higher wages. Is not that the only difference?

Mr. DILLARD. That is true. I do not mean to say that a given workman may not do as much work, that a given workman may not be as effective, but that the expenditure of $1 in a given direction does not bring to him who expends it the same return; it was not by any means to show that the workman is becoming necessarily less effective that the figures were given, but to show—though his effectiveness is the same—the result of the wage increase. I may add that there has been no appreciable increase by the carrier in the average charge for moving a traffic unit and no compensating influence aiding it in bearing these wage increases and at the same time efficiently performing its public duties.

A year or two ago I had some figures made which are approximately correct—as nearly correct as could be obtained—and I found at that time this, that 41 per cent of the entire gross earnings of the railways was going out in payment of labor. To be exact, I give the figures for the years 1909 to 1911, inclusive. In 1909, 40.9 per cent of the gross earnings of railways was paid to labor; in 1910, 41.6 per cent; in 1911, 43.7 per cent. These other figures I now give are only approximate, but were prepared by a careful statistician and, I am satisfied, are substantially accurate.

Senator NELSON. I suppose those figures, from the rate at which they run, include the big salaries of the higher officials?

Mr. DILLARD. I am very glad indeed you called attention to that. There are only about 13,000 officers out of more than 1,600,000 railway employees, and the salaries of higher officials are a comparatively negligible quantity in the matter of increase. In 1910 the salaries of the higher officials were less than they were in 1909, but in 1911 something more. It will all appear in the table I have filed.

Senator NELSON. Do not some of the presidents get $25,000 to $50,000, and the counsel of the roads from $10,000 up to $20,000? Is not that all included in those figures?

Mr. DILLARD. It is, sir; and in reply to the question, which I am happy you have asked, I would say there are men who as presidents of railways are getting $25,000, $30,000, and $40,000 a year, and some, for aught I know, even more; but the same men in employments of a private nature would get as much or more.

Senator NELSON. And section men who are getting $1.25 a day?

Mr. DILLARD. If you please, yes; and if you will permit me to say so, there are many in any line of business, even Senators, who receive amounts which are very far in advance of the amounts that are paid section men. One reason is that God has blessed the Senators with ability which enables them to become Senators, but it may be He has blessed many section men with ability only to dig. Happily, opportunity to rise in railroading is afforded all, and many of the higher officers of the railways commenced on the section.

I shall hurry through now. I am sorry I have detained the committee so long.

In the investigation which I made I found that about one-third of all the coal, about 14 per cent of all the lumber, and about 20 per cent of all the iron is consumed by railways. This shows that the prosperity of the railways has to do with the prosperity of the country at large, not only with men who are working for it but with men

working in mines, in forests, in shops. But I am told these are the very men who are supporting this bill, that the representatives of labor are urging its passage, and am I asked if it is to their benefit that the railways should prosper, and if this bill will be hurtful to the prosperity of railways, why they support it? The only thing I can answer to that is this, that the personal equation must always be taken into consideration. You would not find any body of citizens to-day who would say that freight rates ought to be made so low that the railways would be injured. You would not find the business men of any city who would say that even as to their own business railways should not obtain a just and fair freight rate. Yet when one city comes into commercial antagonism with another, when they are both competing sharply and jealously for business in the same territory, we often find one community, not intending or wishing to harm the railways, but carried away by what appears to be its immediate individual interest, forgetful for the time of the necessities and the rights of the carriers, endeavoring to obtain a freight rate which will equalize its power to sell in the competitive territory with another community more eligibly situated. So, indeed, it seems to me that, as far as the real well-being of the employees of railways themselves is concerned, as far as labor is concerned, this bill does hurt and is not good.

Now, let us see whether, in dealing with strikes, it is wisest and best to weaken the powers of the courts. If there are strikes which do harm, if there are strikers who are injuring the property of the railways and interfering with the performance of the duties they owe the public, is it not far better that through the quiet and orderly decrees and processes of the courts these things should be forbidden and prevented than that the processes of the courts should be weakened and these things be permitted on the one hand or force resorted to for their prevention on the other? I take it that no one now, unless he is of myopic vision or distorted view, would hold that the Pullman strike of 1894, known as the "Debs strike," was a good thing. I take it that all who view that strike in an unprejudiced way believe that the powers of the court were well and wisely exerted. I shall not pause to show the immense loss which was entailed upon the general public, upon the railways, and upon the employees themselves.

Senator O'GORMAN. Have you those figures?

Mr. DILLARD. I have; yes, sir. Would you like to have them?

Senator O'GORMAN. Yes. What was the duration of that disturbance?

Mr. DILLARD. I regret I do not remember.

Senator O'GORMAN. What is the estimated cost?

Mr. DILLARD. The estimated cost I give. I take the figures from the latest edition of the Encyclopedia Britannica. You will find some history of the strike given there. According to the testimony of the officials of the railways involved, the railways lost in property destroyed, hire of United States deputy marshals, and other incidental expenses, at least $685,308. The loss of earnings of the roads on account of the strike was estimated at nearly $5,000,000. About 3,100 employees of the Pullman Co. lost in wages, as estimated, probably $350,000. About 100,000 employees of the 24 railways

radiating from Chicago lost in wages, as estimated, nearly $100,000,000. The loss to the country at large was estimated at $80,000,000.

Senator SUTHERLAND. That strike was in 1893, was it?

Mr. DILLARD. In 1894. The strike originated in this way: There was a difference between the Pullman employees and the Pullman Palace Car Co. Those employees joined the American Railroad Union. Thereupon the employees of the railways, not by reason of grievances against their employers, but on account of their sympathy with the Pullman employees, proceeded to institute a sympathetic strike, which led to vast and direful results.

In speaking of this strike, what did the Supreme Court of the United States say? It said a thing all of us have often said, that it is far better to resort to the courts, to rely upon their processes, than to stand at your door with a bludgeon or a shotgun in order to secure rights which may be given you by the law, or to keep trespassers from your premises. Quoting from the Supreme Court of Connecticut, the court, at page 583 of the Debs case (158 U. S.), said:

In some cases of nuisance and in some cases of trespass the law permits an individual to abate the one and prevent the other by force because such permission is necessary to the complete protection of property and person. When the choice is between redress or prevention of injury by force and by peaceful process, the law is well pleased if the individual will consent to waive his right to the use of force and await its action. Therefore, as between force and the extraordinary writ of injunction, the rule will permit the latter.

The court then, speaking for itself, proceeds to say:

So, in the case before us, the right to use force does not exclude the right of appeal to the courts for a judicial determination and for the exercise of all their powers of prevention. Indeed, it is more to the praise than to the blame of the Government that, instead of determining for itself questions of right and wrong on the part of these petitioners and their associates and enforcing that determination by the club of the policeman and the bayonet of the soldier, it submitted all those questions to the peaceful determination of judicial tribunals and invoked their consideration and judgment as to the measure of its rights and powers and the correlative obligations of those against whom it made complaint. And it is equally to the credit of the latter that the judgment of those tribunals was by the great body of them respected and the troubles which threatened so much disaster terminated.

There was given testimony before the strike commission, a quotation from which is made by the Supreme Court. At page 597 it is said:

We find in the opinion of the circuit court a quotation from the testimony given by one of the defendants before the United States strike commission, which is sufficient answer to this suggestion.

May I digress here for a moment? What is the thought we now have? What is the question that we are putting to ourselves with which we have to deal? An injunction is issued. It is issued rightly. Should it be weakened in its preventive force? Should the power of the court to enjoin be resorted to when wrong is to be done, when a destructive strike is about to prevail, and should its writ be made strong and effective? What does this witness say?

As soon as the employees found that we were arrested and taken from the scene of action they became demoralized, and that ended the strike.

But, says this bill, we will not take them from the scene of action; we will leave them on the scene of action. We will permit them, by positive, direct enactment, to go upon the premises and there en-

deavor to persuade men, peacefully performing there their labor, to leave it. I read again:

As soon as the employees found that we were arrested and taken from the scene of action they became demoralized, and that ended the strike. It was not the soldiers that ended the strike.

Who would have the bayonet and bludgeon in this land in preference to the writ of injunction? "It was not the soldiers that ended the strike; it was simply the United States court that ended the strike."

Senator O'GORMAN. Whose comment is this you are reading?

Mr. DILLARD. The comments are my own. Those I am interspersing.

Senator O'GORMAN. Are you reading some testimony?

Mr. DILLARD. I am reading testimony; and without comment I will read it from the beginning or will so make comment that the comments may at once be distinguished from the text.

Senator O'GORMAN. Whose testimony are you reading?

Mr. DILLARD. The testimony is quoted from one of the strikers; I presume one of the strike leaders. The name is not given. It is quoted in 158 United States in the Debs case, and is the testimony of one of the strikers given before the strike commission. The comments were my own.

Senator SUTHERLAND. The testimony is quoted by the circuit judge, I understand?

Mr. DILLARD. The testimony is quoted by Judge Brewer, of the Supreme Court of the United States, from the testimony of one of the strike leaders as quoted by the circuit court.

Senator SUTHERLAND. The testimony was originally quoted in the opinion of the circuit court.

Mr. DILLARD. Correct.

Senator SUTHERLAND. Then repeated by the Supreme Court?

Mr. DILLARD. Then repeated by the Supreme Court. I did not go back to the evidence before the commission to find out who gave it. I read again:

It was not the soldiers that ended the strike. It was not the old brotherhoods that ended the strike. It was simply the United States court that ended the strike. Our men were in a position that never would have been shaken, under any circumstances, if we had been permitted to remain upon the field among them.

I comment again. This bill says the strike leaders and strikers must be permitted to remain in the field; must not be enjoined from going upon the employer's premises to persuade men to leave the work in which they are engaged there. I read further:

Once we were taken from the scene of action and restrained from sending telegrams or issuing orders, or answering questions, then the minions of the corporations would be put to work * * *. Our headquarters were temporarily demoralized and abandoned, and we could not answer any messages. The men went back to work, and the ranks were broken, and the strike was broken up * * * not by the Army and not by any other power, but simply and solely by the action of the United States courts in restraining us from discharging our duties as officers and representatives of our employees.

It does seem to me that this statement of this man is quite sufficient to show the unwisdom of any law that would weaken the powers of the court and the wisdom of refusing to pass any such law.

May it please the committee, Bacon in one of his essays, written a long time before even the most vivid imagination perhaps dreamed

of anything approximating a railway, when there was little domestic commerce anywhere, says in the quaint language of his day:

> There be but three things which one nation selleth to another: The commodity as nature yieldeth it; the manufacture; and the vecture or carriage. When these three wheels go, wealth will flow as in a spring tide.

The statement is true to-day and applies to the commerce of to-day, that which is domestic as well as that which is international. It is applicable to the domestic commerce of this country and contains in it the very heartbeat of national industrial life. Production, manufacture, distribution are the sources of a people's wealth. Anything which tends to injure any of them is a hurt to the country. Any movement in affairs, any law, which interferes with free distribution, with ready and efficient transportation, is a movement, a law, which can not but bring hurt. If this proposed law does that—and I have endeavored to show as best I could that it does—then I submit it is a law which should not be passed.

I thank the committee for the kind and patient attention they have given me.

ARGUMENT OF DANIEL DAVENPORT, ESQ., OF BRIDGEPORT, CONN., REPRESENTING THE ANTIBOYCOTT ASSOCIATION.

Senator NELSON. I should like to hear the last part of the bill discussed above everything else. I would like to have that discussed and to have pointed out in which directions it is harmful.

Mr. DAVENPORT. I appear here in behalf of the American Antiboycott Association, which is an organization of concerns which have united to protect the members from boycott.

Senator O'GORMAN. Where is it located?

Mr. DAVENPORT. Its headquarters are at 27 William Street, New York City. Many of its members have instituted suits in the Federal courts and in the State courts for the purpose of protecting themselves from various unlawful acts which are of the character covered by this bill, and those suits are pending in the United States District Court for the Southern District of New York as well as other Federal courts, and if I understand this act, it would apply to those cases. It does not exempt suits now pending, and in those cases we have gone on and taken testimony for months on both sides; temporary injunctions were granted after hearings, and in passing I wanted to direct the attention of the committee to the fact that this bill would affect suits pending.

I suppose it is unnecessary at this stage of the history of this country to do anything more than outline to the committee what organizations have been formed having in mind the doing of the things which are sought to be exempted from the prohibitory decrees from the equity courts of the United States by this bill. You know there is the organization known as the American Federation of Labor, which is composed of some 28 or 30,000 local unions, which are federated together into city labor unions in their localities and in the States, in the State federations of labor; and then all the unions belonging to a particular craft are united in a national union, of which there some 115, and all these are gathered together under what is know as the American Federation of Labor. There is, in addition to that, another organization within that organization of a particular class of occupations—for

instance, the 20 or more crafts that are engaged in the building trades. They form what is called the building-trades department of the American Federation of Labor and have a charter from it. They have also the metal-trades department, of which there are 11 or 12 members, all federated together under a charter from the American Federation of Labor, and they operate together, the net result of all of which is that the entire power of this vast aggregation of men can be directed against any individual. It is the 2,000,000 members against the 1 individual whom it has selected for attack.

Senator NELSON. You mean for boycott?

Mr. DAVENPORT. For boycotts and cognate matters. For instance, take the situation in the State of New York to-day. Any manufacturer of wood trim in any Western State who runs what is called an open shop is as completely barred out of the market in the city of New York for his wood trim as if there were a line of battleships ranging up and down the Hudson River for that purpose. It grows out of the agreement that exists between these different unions in the building trades and the employers in the building trades, who have agreed not to put in anything but union-made trim, and the unions have agreed not to work upon anything but union-made trim. This combination is in direct violation of the Sherman Antitrust Act; it is in direct violation of the common law; it is in direct violation of the statute law of the State of New York, and concerns in the West which were driven out of the market by reason of that combination who are members of that association, brought a suit in the circuit court, now the district court, of the State of New York, to enjoin the carrying out of those agreements, and after elaborate testimony was taken a temporary injunction was granted in the United States circuit court.

These matters only illustrate the importance and the magnitude of the problem which is presented to this committee in attempting to legislate upon this subject. Of course there are other phases of this matter. Take, for instance, the Danbury Hatters' case. That was a case where a manufacturer of hats in the city of Danbury, running an open shop, refused to unionize his shop, and because of that fact the United Hatters proceeded to break up his business and to send out agents throughout the country attacking him in his business in this way by going to his customers and telling them that if they did not cease to deal with him they would proceed to boycott their business, and in case any customer still stood out they proceeded to notify him that his customers would be boycotted, and so on. You had the primary and secondary and third degree boycott. They went from city to city and State to State until they reached the State of California. This concern was a member of this association and brought a suit, backed up by the association under the seventh section of the Sherman Antitrust Act, and that case went through to the United States Supreme Court, and the court held that these acts were forbidden by the Sherman Antitrust Act, as is familiar to you all. In the meantime the injury was so great and so imminent that we went into the United States circuit court in California and procured from that court, after hearing, a temporary injunction that, after elaborate hearing and taking of testimony, finally went into a final decree, which on appeal was affirmed by the circuit court of appeals for the ninth circuit. Of course you gentlemen are also familiar with the Bucks

Stove & Range case, and what the operation there was. That was also one of our cases.

If this bill becomes a law, and it is in the power of Congress to enact a valid law of this character, the effect would be to deprive the victims of these combinations of the protection which they now have, and I want at this time to direct to the distinguished lawyers upon this committee some observations upon the question whether or not an act of this kind, if passed, would be constitutionally valid. Of course, you can see, if it is not valid and it is placed upon the statute books, what confusion it will work until it is finally declared to be unconstitutional. So I submit that it is a matter of great consideration by this committee whether or not the law would be of any validity if it were actually enacted. This bill is the successor and substitute for another bill which has long been pending in Congress, known as the Pearre bill. The purpose of that bill, and the terms of that bill, were to declare that the right to do business and the right to enter into labor relations were not property, and to declare that courts of equity should not issue injunctions for the purpose of protecting anything but property, and so, in that way, to exclude from the scope of the protection afforded by the courts that class of rights and relations. For session after session we have, before committees of the other house, discussed the proposition whether or not an act of that kind would be valid, an act which declares that these things are not property by legislative fiat and forbids a court of equity from protecting them by injunctive process. The Supreme Court of the United States, in the case of the United States *v.* Adair (208 U. S.), settled the question that these are property rights, that they are not only rights of liberty, under the fifth amendment of the Constitution, but are also property rights.

Senator NELSON. You mean the right to work?

Mr. DAVENPORT. The right to enter into labor, to work, to carry on business contracts.

Senator SUTHERLAND. The Pearre bill declared in terms, did it not, Mr. Davenport, that the carrying on of the business should not be regarded as a property right?

Senator O'GORMAN. Did the court say that?

Senator SUTHERLAND. No, the Pearre bill.

Mr. DAVENPORT. I have here the terms of that bill. It is the same bill, the committee will remember, which President Roosevelt, in his letter to Mr. Knox, criticized Mr. Bryan in the last campaign for not declaring whether he was in favor of it or not. Let me read the terms of it:

> That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment as laborers, or between persons seeking employment as laborers, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be particularly described in the application. And for the purposes of this act no right to continue the relation of employer or employee or to assume or to create such relation with any particular person or persons, or at all, or to carry on business of any particular kind or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

That was the provision in that bill, and that bill, in substance, was again introduced in the present Congress, in the present House, by Mr. Wilson, and referred to the Committee on Labor. It was also sent to the Committee on the Judiciary, and became known as the Wilson bill.

Senator SUTHERLAND. Has it been claimed by the proponents of this bill that the term "property right," standing alone, does not include the right to do business?

Mr. DAVENPORT. Surely.

Senator NELSON. Of course, you remember this, that this bill, on page 3, uses the language "injury to property or to a property right," seeming to exclude what I would call a personal right?

Mr. DAVENPORT. Surely.

Senator NELSON. The right to do business or the right to do labor.

Mr. DAVENPORT. That was in the Pearre bill. It absolutely prohibited them from being considered as property rights, but in view of the discussion that was there had, and in view of the conclusions expressed by the courts in regard to the matter, it became manifest that an act of that kind would be a nullity because it was not in the power of the legislature to declare that a certain thing is not property which the Supreme Court of the United States says is property and is protected by the guarantees of the fifth amendment from invasion by the legislature. So the bill was redrafted and put in this shape, and it is now for the committee to say whether or not, in the view I am taking of this matter, they have healed the difficulty.

This section says:

That no restraining order or injunction shall be granted by any court of the United States or a judge or the judges thereof in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

Under the decision of the United States in this Adair case, and supported by a very large number of decisions everywhere, those things that in the Pearre bill were sought to be declared not to be property rights are property rights, and would be covered by the first clause of this bill. So that you could go into court and seek to protect your rights under the first clause of this bill. But the bill goes on, then, to say that a certain class of acts attacking your property right shall not be enjoined against, and this is the way it reads.

Senator SUTHERLAND. May I interrupt you again? I had understood—I do not know where I saw it or where I heard it—that it had been claimed that the provision in this bill now pending, with reference to property rights, would not include the right to do business. I wondered what the foundation of that was.

Mr. DAVENPORT. In construing this bill I suppose the courts would say that what the courts have said time out of mind are property rights would be covered by that first section, and that when it says that "unless to prevent irreparable injury to property or to a property right," whatever fell within that definition of property would be covered by the terms.

Senator ROOT. You do not find anything in this language, do you, which undertakes to change the law in that respect?

Mr. DAVENPORT. Not in that respect. The friends of this legislation did try for 10 years, ever since 1906, as you will see by an examination of these bills, to get the law so changed that it should say in so many words that while a horse may be property, these other rights are not property rights, but are only personal rights not within the legitimate scope of a court of equity to protect. They have avoided that obstacle in drawing this bill, but they run upon another. This is what they say: No matter what the property right is, if it is unlawfully assailed and irreparable damage is threatened by any of these acts, you can not protect that property right by the injunctive arm of a court of equity. See how it reads:

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do, or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully persuading any person to work or to abstain from working, or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do, or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value.

In other words, if you have a property right and people unlawfully assail that property right by the means specified, a court of equity is prohibited from issuing an injunction to restrain the doing of those acts. I trust I have sufficiently indicated to the committee the distinction between the present bill in those respects and its predecessors.

I humbly submit to this committee that if I have a property right and that property right is assailed by wrongful means, and I have not adequate remedy at law which is the prerequisite for the exercise of the equity power, I have a right under the Constitution to that equitable process of law which will protect me from the doing of those acts.

Senator ROOT. Mr. Davenport, is not the theory of this last paragraph of the bill that these acts enumerated are not unlawful?

Mr. DAVENPORT. Whatever may be the theory of the bill, we know very well that the courts have over and over again held that they are unlawful.

Senator ROOT. Certainly there are some of them that are not unlawful.

Senator NELSON. Let me interrupt you here. Does not this phraseology, commencing at the end of line 11, page 4, legalize the secondary boycott: "Or from ceasing to patronize or to employ any party to such dispute?"

Mr. DAVENPORT. To the extent of removing equitable protection.

Senator NELSON. That is what I mean.

Mr. DAVENPORT. It would still be unlawful and subject to an action in damages. It would still be subject to the criminal provisions of the Sherman Antitrust Act. But the purpose of this bill is to strip the owners of these rights of the right of enjoining those particular acts. For instance, now, to specify, suppose I have a contract with a man to work for me for a year, to render personal service. That man has a right to break that contract; that is, he can break it, and I have a remedy in damages. But if men go and persuade that man to break his contract, I have a right of action against them, and I have a right

to go into a court of equity and ask to have that property right in that contract protected from that persuasion. An illustration of this is to be found in the case of Bitterman *v.* Louisville & Nashville Railroad Co. (207 U. S.), which was the scalpers' case, where the scalpers would persuade the owners of the tickets, in violation of their contract not to assign them, to sell them, and the railroads went into a court of equity and secured an injunction restraining them from interfering with their property rights in that contract.

The Supreme Court of the United States in the case of Bitterman *v.* Louisville & Nashville Railroad Co. (207 U. S.) held that was a proper thing to do. It does not make any difference what the contract is. But further than that, that the right of a man to seek employment, the right of a man to be free——

Senator NELSON (interposing). I want to call your attention here to the fifth amendment to the Constitution, which reads as follows: "Nor be deprived of life, liberty, or property"——

Mr. DAVENPORT. Surely.

Senator NELSON. Liberty is put on exactly the same footing and power as property, by the fifth amendment.

Mr. DAVENPORT. Yes.

Senator NELSON. And that means the liberty to work or to do business is as much under the protection of the Constitution as though eo nomine.

Mr. DAVENPORT. Not all rights of liberty can be protected by a court of equity. It has to be something of a pecuniary nature.

But I think after reading the case which his honor Senator Root has before him, there would be no question in anybody's mind that these very things which these gentlemen claim are not rights of property but only personal rights are within the purview of a court of equity to protect without usurpation; and there can not be said any longer, after that decision, that there is any doubt about it, because four times over in that decision Mr. Justice Harlan, giving the opinion of the court, says this is not only a right of liberty but a right of property and protected by the fifth amendment to the Constitution.

Can there be any doubt about this proposition? It is an elementary constitutional proposition that if I have property and the ordinary processes of a court of law are insufficient to protect me in that property that any law which, while providing courts of equity and giving them jurisdiction over a class of equitable subjects, should undertake to say that that particular class of property should not be protected or that that property should not be protected by a court of equity from a certain class of acts which tend to their destruction, would be void under the fifth amendment.

When I take up the discussion on this matter when the committee reconvenes, I would like to present to the committee some authorities illustrative of this proposition: That when the fathers put into the Constitution the provision that the judicial power of the United States should extend to all cases in law and equity arising under, etc., and to all controversies between citizens of different States and providing that no person should be deprived of life, liberty, or property without due process of law, they ingrafted upon the judicial system of this country the distinction which had all the time prevailed before that between legal rights and equitable rights and legal remedies and equitable remedies and preserved them, and any law which should

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undertake to say that a man having no adequate legal remedy should not be protected in his property rights by equitable process from acts which tend to the destruction of those rights would be one depriving him of his property without due process of law.

Senator NELSON. Here is another feature, Mr. Davenport, to which I want to call your attention and which I would like to hear you discuss: It is this language, commencing in line 7 on page 4:

or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, * * *.

Does not that prevent any restraint of unlimited picketing, and can not the strikers go to a man's house and intimidate his wife, indirectly, by inuendo?

Mr. DAVENPORT. I suppose that is the purpose of it.

Senator NELSON. And that man gets no relief.

Mr. DAVENPORT. Of course that is the purpose of it.

Senator NELSON. Would not they go to his wife and say, "Here, your husband will get in trouble if he don't keep away"?

Mr. DAVENPORT. I suppose that is the purpose of it.

Senator NELSON. Yes. In other words, does it not legalize unlimited picketing of all kinds?

Mr. DAVENPORT. I should say that is its effect and purpose.

Senator NELSON. And legalize it to the extent of preventing remedy by injunction.

Senator ROOT. The time for adjourning is about at hand, and it seems that Mr. Davenport has come to a point where he can conveniently suspend.

What other gentlemen are to be heard?

Mr. HERROD. Mr. Emery and myself.

Senator ROOT. How much time will you desire?

Mr. HERROD. About an hour and a half.

Senator ROOT. How much more time will you require, Mr. Davenport?

Mr. DAVENPORT. About an hour and a half. I will say to the committee that I am located here, and that I can conclude my presentation at any time which suits the convenience of the committee and the other gentlemen who desire to speak. If Mr. Herrod is anxious to get home, I can continue after he has finished.

Senator ROOT. Very well. We will adjourn until Friday morning at 10 o'clock, and at that time will hear Mr. Herrod.

Thereupon the committee adjourned until Friday, July 12, 1912, at 10 o'clock a. m.

TUESDAY, JULY 16, 1912.

SUBCOMMITTEE OF THE COMMITTEE ON JUDICIARY,
UNITED STATES SENATE,
Washington, D. C.

The subcommittee met at 10.45 o'clock a. m.

Present: Senators Root (presiding), Nelson, and Sutherland.

STATEMENT OF DANIEL DAVENPORT, ESQ.—Continued.

Senator ROOT. Mr. Davenport, the Senate goes into the consideration of the Archbald impeachment at 1 o'clock, and the committee will be obliged to adjourn a little before that time.

Mr. DAVENPORT. I will go on, may it please the committee, as far as I can.

The committee will recall that at the last hearing I advanced the proposition that this bill, if it should have the construction which I suppose its friends and advocates propose, would be unconstitutional, because, as you understand, of course, injunctions now can only be issued where irreparable injury is threatened, and there is no adequate remedy at law for acts which are unlawful. Courts of equity do not now, and could not, issue injunctions to restrain lawful acts, and there is no need of an act of Congress to forbid it. It is because the acts threatened are unlawful that courts issue these injunctions.

The committee should bear in mind that an act may be unlawful in itself or unlawful in its relations. The committee is familiar with the doctrine in regard to conspiracies, that conspiracies to effect a lawful object by unlawful means or an unlawful object by lawful means are equally forbidden by law, and that all acts which are done in carrying them out partake of the illegality, and, in case of a criminal conspiracy, of the criminality.

As I stated the other day, if this bill were passed, the law would still be unchanged as to what is lawful and what is unlawful. Its sole effect, and as I understand it, the sole purpose of those gentlemen who took the responsibility of recommending it to the House of Representatives, is simply that it takes away the injunction process; it is an anti-injunction bill; it merely deprives the injured party of his relief in equity.

So the committee will see that the purpose of this law, if it were enacted, and it had the construction which its advocates contend for, its effect would be not to change the law as to what property is nor to make lawful those things which are now unlawful, but simply to take away from the persons whose property rights are affected by the unlawful acts the right to go into a court of equity and seek the protection of an injunction. Indeed, if you will look at this bill closely, I think the courts in their struggle to maintain the law would be very apt to say it does not even do that, because if you will look at this last section, section 266c, apparently the last clause, colors all that has gone before, "or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto." But such a construction of the law as that now suggested would be most unsatisfactory to the friends of it, because certainly they are not asking you to pass an act which would be so manifestly futile. Their intention certainly is to dismantle the Federal courts of the power to grant equitable relief in these cases. I think this committee ought to be very careful in enacting legislation relative to this delicate subject not to give color to the claim that will be made, and that has often been made, that jokers are put into bills by the legislature, or that the courts by construction have evaded the real purpose of the law.

I want to come back now to the proposition I started with the other day and which I now reiterate, that this act, if its purpose is, and if the thought is, to take away from the citizens of the United States who have property rights as they have been defined and declared by the Supreme Court of the United States and by the various courts, Federal and State, the protection of the injunctive process from unlawful acts, that it would be a nullity; it would be void.

To show you gentlemen what a half-baked, ill-considered, preposterous bill this is, I ask you to follow me now in a practical application of it. I suppose you gentlemen have been retired from the practice of law for some time and have perhaps never had any particular occasion to deal with litigation involved in these matters.

You know the Constitution of the United States provides that the judicial power of the United States shall extend to all cases of law and equity arising under the Constitution, statutes, and treaties and to controversies between citizens of different States. Congress has enacted a law which provides that the Federal courts shall have concurrent jurisdiction with the State courts in all such cases where the amount exceeds $3,000. The State courts and the Federal courts now have concurrent jurisdiction of such cases. Congress has further provided that where a defendant in a State court is a resident of another State from that in which he is sued, he has a right to remove that case to the Federal courts from the State court.

If there is anything that is settled beyond peradventure, it is that an act of the State legislature which would take away from a citizen the protection of the injunctive process in an appropriate case would be a violation of the fourteenth amendment. I say, if there is any proposition that is settled it is that.

Now, take a case. We will suppose that citizens of another State come into my State and engage in the practices that the Industrial Workers of the World (I think the name of the organization is) are now doing there. They are citizens of other States. Under the law of my State a party injured has a right to bring suit in our State courts for an injunction to restrain the doing of the things that are forbidden to be enjoined in this bill. Such party sued, being a citizen resident in another State, has a right to remove the suit into the United States district court. But if it is removed into the United States district court this act says that court shall not issue an injunction.

See the situation in which that leaves the matter. The defendants have an absolute right to remove that case into the district court. A temporary restraining order may have been granted by the State court before the return day of the writ. Possibly a temporary injunction may have been issued before the return day of the writ. The moment the return day comes those defendants, being nonresidents of Connecticut, have a right to remove the case into the United States district court. Thereupon this act steps in and says that the Federal court shall not issue an injunction in such a case. If such a law was of any validity, you can see the confusion in which it would leave the matter.

I assert, and assert with great confidence in the correctness of my position, that Congress, having created Federal courts and given them equitable jurisdiction in a certain class of cases, can not say to those courts, "You shall not by your equitable process protect a party from unlawful acts where he has no adequate remedy at law for the injury resulting from them.

And so I say that this act, if it was passed, and the courts were forced to take that construction for which its advocates contend, they would be obliged to declare it unconstitutional.

I know it is not always an effective argument against the passage of a bill to say that it is unconstitutional. I know that legislators

say, "Well, let us leave the matter for the courts; the courts surely will protect themselves." But in the meantime, in this particular piece of legislation, I want to direct your attention to the confusion that would arise until such time as the Supreme Court had opportunity to authoritatively declare it to be unconstitutional.

A party is threatened with irreparable injury. It may be, like in the case of the Bucks Stove & Range Co., $250,000 of damages with which he is threatened. That was the amount of damages actually sustained in that case. He seeks the protection of a court of equity. But the inferior court would say, "Congress says we must not enjoin these acts." The party therefore would be compelled to resort to his action in damages, unless the lower court would take it upon itself to set the law aside.

It is needless for me to run out all the phases of that matter. That will occur to every lawyer and every legislator as he stops to think about it.

I want to emphasize another thing about this matter, and that is, all the acts enumerated here in section 266 as acts which shall not be enjoined by the Federal courts, may all of them be means in carrying out an unlawful conspiracy. They all may be means which affect injuriously property rights as they have been defined by the courts. The honorable chairman of the committee the other day made this remark when I was talking, "Why, some of these acts are lawful." Not necessarily. They may all of them perhaps, with few exceptions, usually be lawful, but all of them are unlawful when done under certain conditions.

To illustrate the principle: What more innocent thing is there than for me to stand on a street corner and look up and down to watch whether any person is coming or not? Standing by itself it is a perfectly innocent act. But it depends altogether upon the purpose for which I am there, and upon its relation to other things. If I am there to watch while another man goes into the house of my neighbor for the purpose of robbing it or murdering him, and I am there for the purpose of giving the burglar warning, I become a principal, if I am near enough to aid and abet. I become a principal in the crime. Besides, both of us are concerned in an illegal conspiracy for which, if the party was robbed, and he sought civil damages from me, he could recover from me the loss by the robbery.

The principle is laid down by the Supreme Court of the United States in the case of Aiken *v.* Wisconsin (195 U. S., 194):

> No conduct has such an absolute privilege as to justify all possible schemes of which it may be a part. The most innocent and constitutionally protected of acts or omissions may be made a step in a criminal plot, and if it is a step in a plot, neither its innocence nor the Constitution is sufficient to prevent the punishment of the plot by law.

That of course is the principle that runs through the law in regard to all combinations. Every act, otherwise innocent, is unlawful if done to carry out an unlawful combination. If you start out with the proposition that courts of equity now can only enjoin unlawful acts, which are of a character to cause injury to property rights, such as property rights have been defined by the courts, that that injury must be irreparable and that there is no adequate remedy at law it matters not why they are unlawful.

In the very able and comprehensive statement that was made here the other day by Mr. Hines, he called the attention of the committee to the vast number of laws that have been passed by Congress which are violated by these combinations. Any act mentioned in this bill may be the means resorted to to carry them out, and if so is unlawful. Of course you know that the land-grant railroads of the country are obliged to transport the troops, they are obliged to transport supplies and certain other things under the very terms of their grant. You also know the various provisions of the law in regard to the obligations of all the railroads and of all their employees who perform the various functions that are imposed upon the roads by act of Congress. They are obliged to establish through routes and to furnish facilities, adequate facilities; and it is made by act of Congress a crime for any employee of the road to violate it. You know how it is in regard to the mails; you know the legal obligation the roads are under to transport you gentlemen to the seat of Government from your respective homes, and the judges of the courts, the witnesses, the marshals, the prisoners, all the supplies that are essential to the operations of the Government. A combination to violate these laws is unlawful and any of the acts covered by this bill if a means thereto is unlawful. This is only an illustration, because the same principle applies in regard to other occupations. But it is markedly so with regard to the carriers both of passengers and freight.

If a set of men combine together for the purpose of violating any law, every act that they do in aid of it is an unlawful act. It might be innocent but for the fact that they have combined together to do something that is forbidden by the law and used it as a means.

Then take the Sherman Antitrust Act. That is another law that covers the whole field of interstate business and combinations in violation of that law are unlawful. And any act that is mentioned here as not to be enjoined is among those acts which have been resorted to and may again be resorted to in the carrying out of civil and criminal conspiracies forbidden by that law.

For Congress to step in and say to the citizen, "To be sure you have property rights; your right to carry on business for instance is a property right which Congress can not declare not to be a property right without violating the fifth amendment of the Constitution, as the Supreme Court has said in the Adair case. It is true that the acts by which it is threatened with injury are unlawful; the injury is imminent and will be irreparable, and you have not in the ordinary processes of the law protection, but you shall not have an injunction." What nonsense!

For the legislature to say to the courts and to the citizen, "No such protection shall be afforded by the law," is so palpably unconstitutional and void that it does not need elaboration, it would seem to me. The proposition must commend itself to the attention of the committee as not requiring demonstration.

And there is wherein I think our friends of the House Judiciary Committee made their mistake. This bill was never considered in the Judiciary Committee. As I understand it, there was never a full committee meeting on the subject. Certain members of the committee decided on reporting the bill and it was reported. At any rate, this was true: The opponents of the bill never had an opportu-

nity to discuss it before that committee. The suggestions that I am making to you I never had an opportunity to present to the House committee. The other bills we were talking about there were bills of an entirely different character. I fondly believe, if we could have had an opportunity such as we have had here before this committee to present the constitutional objections to it—these vital objections to it, that the gentleman to whom it was presented never would have reported it.

Now, I want to call attention here to the fact that the gentlemen who are advocating this kind of legislation do it with a specific purpose in view. They represent the American Federation of Labor, and the principle for which that organization stands is that of what is called the "closed shop."

You will remember that about 1903 certain labor unions made a demand upon the authorities here for the discharge from the Government Printing Office of a man because he did not belong to a labor union. That demand was backed up by the whole power of the American Federation of Labor. Its executive council on the 29th of September, 1903, called upon President Roosevelt by appointment to receive his decision in the matter. The executive council made a report of the incident at the ensuing convention of the American Federation of Labor, held in November, 1903, at Boston, which contained the answer of the President of the United States to this demand. I have the report here, and I want to read it. It is brief:

The President accorded us the opportunity of a two-hours' interview of the discussion with him of a number of matters affecting the interests of labor. Particularly among these were the eight-hour law and bill, anti-injunction bill, and other matters relating to labor, the "Miller case," as well as the case of Ephraim W. Clark. The President expressed himself in favor of the principles of the eight-hour bill; that he would take the anti-injunction bill under consideration; requested that a statement in the case of E. W. Clark be submitted to him; and handed to us a previously prepared statement regarding the Miller case, as follows:

"SEPTEMBER 29, 1903.

"I thank you and your committee for your courtesy, and I appreciate the opportunity to meet you. It will always be a pleasure to see you or any representatives of your organization or of your federation as a whole.

"As regards the Miller case, I have little to add to what I have already said. In dealing with it, I ask you to remember that I am dealing purely with the relation of the Government to its employees. I must govern my action by the laws of the land, which I am sworn to administer, and which differentiate any case in which the Government of the United States is a party from all other cases whatsoever. These laws are enacted for the benefit of the whole people and can not and must not be construed as permitting discrimination against some of the people. I am President of all the people of the United States without regard to creed, color, birthplace, occupation, or social condition. My aim is to do equal and exact justice as among them all. In the employment and dismissal of men in the Government service, I can no more recognize the fact that a man does or does not belong to a union as being for or against him than I can recognize the fact that he is a Protestant or a Catholic, a Jew or a Gentile, as being for or against him.

"In the communications sent me by various labor organizations protesting against the retention of Miller in the Government Printing Office, the grounds alleged are twofold: (1) That he is a nonunion man; (2) that he is not personally fit. The question of his personal fitness is one to be settled in the routine of administrative detail and can not be allowed to conflict with or to complicate the larger question of governmental discrimination for or against him or any other man because he is not a member of a union. This is the only question now before me for decision, and as to this my decision is final."

The next day after the interview the executive council issued a circular letter upon the subject, which was sent broadcast throughout

the United States by the Associated Press and by circulars and was later published in the American Federationist for November, 1903. It was signed by all the executive council, as will appear from an examination of it. I have a portion of it here, which I want to read:

The immortal Lincoln said: "This country can not long remain half free and half slave." So say we, that any establishment can not long remain or be successfully operated part union and part nonunion.

The executive council brought to the President's attention the manner in which his decision had been quoted, and in addition to the relationship of Mr. Miller to the bookbinders' union, as brought forth in the charges against him, the "open-shop" idea was carefully considered. Replying to statements on the subject, President Roosevelt set forth that in his decision he had nothing in mind but a strict compliance with Federal, including civil-service, law, and that he recognized a difference between employment by the Government circumscribed by those laws and any other form of employment, and that his decision in the Miller case should not be understood to have any other effect or influence than affecting direct employment by the Government in accordance therewith. He furthermore made plain that in any form of employment excepting that so circumscribed he believed the full employment of union men was preferable either to nonunion or "open shops."

I want now to invite your attention particularly to what follows. This is a statement of the great executive council of the American Federation of Labor, made to their convention, and approved by that convention:

In view of the publicity given this subject, the executive council of the American Federation of Labor takes this opportunity to say that the trade-union movement stands strictly for union shops, experience having proved that where the "open-shop" system has been tried reduction in wages and profits have ensued, with general disaster to the industry practicing that system, and therefore declares that the best interests of the labor movement call for the employment of union workers and discourages in every way, shape, and form the deteriorating effects which follow the recognition of the (open shop).

That that is not a casual declaration of the position the Federation of Labor takes, I want to read to you from the address by Mr. John Mitchell before the National Civic Federation at Chicago. He was then the president of the United Mine Workers, and he was and is now the vice president of the American Federation of Labor—one of its executive council. This was published in the American Federationist for the month of December, 1903, with the approval of Mr. Gompers, and it stands for the best expression of the real purpose of this organization, as stated in what I have already read to you, that can be found. If you care to see the whole article, look at pages 1301 to 1305 of the American Federationist for the month of December, 1903, the title of the address being the "Case of the nonunionist." I want to read an extract or two from it. He was discussing the claim that every man had a natural right to work, and he goes on thus:

What is this right to work? It is commonly assumed in the argument for the nonunionist that every man has a right to work when and where he will, for what wages he will, and under whatever conditions he will. If this were true, it would follow that the unionist would have as much right to make the dismissal of all nonunionist a condition of his work as the nonunionist would have to work at less than union wages. As a matter of fact, no man, and still less no woman or child, has even a legal right to work except under certain prescribed conditions, and still less a moral right to do so.

Then he goes on:

With the progress of trade-unions and their growth in strength there will probably be a lessening in the intensity of feeling against the nonunionist, but no lessening in the policy of exclusion. The hatred of the nonunionist is not a new thing and is

probably less severe at the present time than it formerly was. In England much of the former animosity against the nonunionist, an animosity which took the form of physical violence and a refusal to have intercourse of any sort, has now abated, although the policy of exclusion has become more and more general. For instance, the British textile workers insist upon the employment of union men only; but in this and other trades the exclusion has become so complete that it has almost ceased to be felt. A union card is a matter of course and a matter of absolute necessity to a man desiring to engage in many British trades, and membership in a union is considered a privilege and not a burden.

In the United States the hatred harbored against the nonunionist is much more intense. The American unions are, upon the whole, younger and weaker than the British organizations and the field is more favorable to the work of the nonunionists.

As before stated, the unionist has a perfect legal and moral right to refuse to work with the nonunionist, and as time goes on the exclusion of the latter will become more and more complete. The employers, who are even now endeavoring to extend the responsibility of unions, will, to a greater extent desire that these organizations be morally responsible for the conduct of all the employees. With the rapid extension of trade unions, the tendency is toward the growth of compulsory membership in them, and the time will doubtless come when this compulsion will be as general and will be considered as little of a grievance as the compulsory attendance at school. The inalienable right of a man to work will then be put upon a par with the inalienable right of a child to play truant, and the compulsion exercised by the trade union will be likened to that of a State, which in the interest of society forces an education upon the child, even though the child and its parents are utterly and irreconcilably opposed to it.

In stating that unionists have a legal and a moral right to refuse to work with nonunionists, I desire to make two qualifications. * * *

The second qualification is based upon policy rather than principle. While the unionists have a perfect legal and moral right to refuse to work with nonunionists, it is not always politic to exercise this right, and the demand upon the employer for the complete unionizing of his plant is not always presented in a wise or politic manner. There are many employers who are willing to have their shops unionized who are not willing to appear to be forced into such a position and there are many workmen who can be persuaded who can not be compelled to become unionists. There should be no demand for the unionization of a shop until all reasonable efforts have been made to secure the allegiance of every employee. It is unwise, moreover, to demand the unionizing of a shop or an industry where there is not sufficient strength to compel it. For every such demand, and prior to every such demand, there should be months of patient propaganda, and in this, as in every other line of trade union policy, compulsion should not be used until persuasion has completely and signally failed.

In conclusion, I believe that trade-unions have a perfect legal and moral right to exclude nonunionists, but that this right should be exercised with the utmost care, and only after persuasion has been tried and has failed. I also believe that with the growth of trade-unionism in the United States the exclusion of nonunionists will become more complete, although the animosity toward the nonunionist will diminish with the lessening of his power to do evil.

Considerable has been said here about the attitude of those in the control of the great organizations of labor in this country. As I told you the other day, we have camped down now in the midst of our society here a vast organization of 2,000,000 members. In actual membership I think the number of the American Federation of Labor is 1,750,000. We have other unions not members of that organization, like the railway brotherhoods, and which are vast, compact, organized institutions. It is a great army, greater than any army in the history of the world, I suppose.

That organization has the control of immense sums of money. The facility to raise money is unlimited. Take the American Federation of Labor. An assessment of 1 cent per member raises $17,500. The executive council has a right to levy 10 of those a year, making in the neighborhood of $175,000. At the same time, their organization is such they can by appeals to their members raise enormous sums of money. I want to give you an illustration of an appeal that was made.

Allusion was made here by Mr. Drew in regard to the transactions that led up to the arrest of the McNamaras for the blowing up of the Los Angeles Times Building. It became advisable to raise a sum of money to take care of the defense. I read this for the purpose of showing you how this organization can be appealed to and how effectively it can be appealed to for the purpose of raising enormous funds. Here is a circular that was issued, signed by Mr. Gompers as president of the American Federation of Labor, and by Mr. Morrison as secretary.

WASHINGTON, D. C., *July 27, 1911.*

To all workers:

For right is right, since God is God,
And right the day must win;
To doubt would be disloyalty,
To falter would be sin.—Faber.

From Los Angeles last October came the news that a terrible catastrophe had occurred in that city; that the Los Angeles Times Building has been destroyed, with the loss of a number of lives. The first word spoken, even before the flames had completed their destruction, by the emissaries of the Times contained positive declarations that organized labor was responsible for the disaster. Qualifying statements were conspicuous by their absence. Wide publicity was given; warped and unsupported allegations against the organized workmen of the entire country were featured. Vast sums of money were dangled in the faces of unscrupulous men to fasten the crime upon some member or members of the trades unions. The National Manufacturers' Association, backed by the Erectors' Association, citizens' alliances, detective agencies, and a hostile press brought their every influence to bear and appropriated every available circumstance to bulwark and fix in the public mind a mental attitude that the charges against organized labor had been proven beyond the peradventure of a doubt.

The authors of the charge, after months of intrigue and searching investigation, utterly failed to substantiate the flambuoyant and positive accusations that had been made. The public mind was slowly emerging from the hypnotic spell in which it had been developed, and mutterings of suspicion began to be heard against the originators of the indictments against labor men. The position of the hostile employers' association became exceedingly desperate. The Times management with its years of relentless warfare against humanity, fearing that its Belshazzar feast of organized labor's blood was about to be denied, redoubled its efforts and demanded that a sacrifice must be furnished that its unholy appetite might be appeased, specifying that some union workman or workmen must be supplied to assuage its unnatural and abnormal hunger.

The record of events is too well known to make it necessary to recount them in detail. That "the end justifies the means" became the slogan is patent. With all the forces of greed compactly joined there began a campaign of vandalism the like of which has never before found lodgment on the pages of our American Republic's history. A prominent member of union labor was selected, J. J. McNamara, and one at whom the finger of suspicion had never before pointed, whose life had been characterized by an uprightness of purpose and loyalty to the cause of labor, and whose activities in every walk had drawn to him the commendation of his fellows. To give the stage the proper setting and to involve other trades than the ironworkers, J. B. McNamara, the brother, was selected for the sacrifice.

With intrigue, falsehood, and an utter disregard for all forms of law, applying individual force, conniving with faithless officials, the two McNamaras were rushed in feverish haste to the scene of the alleged crime. The rights of these two men have been trampled upon willfully, flagrantly, and wantonly.

Every man, even the meanest, under the constitutional guaranties of our country is entitled to a trial by a jury of his peers, and every man is presumed to be innocent until proven guilty. Thus far the proceedings have been outside the pale of those guaranties. The charge has been lodged against organized labor, and two of its members are now before the bar to answer these charges. What is the duty of the organized-labor movement? What shall be our course? What effort shall we put forth to see to it that justice shall finally obtain?

The intellect, heart, and soul of the men of labor yield to no body or class of citizens in their fidelity in obedience to the law, and their history is replete with instances of sacrifice that humanity may be protected. If within the ranks of labor there are those who permit infractions of the law, then they should be punished, but there should not be instituted a double standard of justice—one for the wealthy malefactor and another for the workman.

The organized-labor movement believes that the McNamaras are innocent. Upon that belief there devolves upon us another duty. The accused men are workmen, without means of their own to provide a proper defense. The assault is made against organized labor equally with the McNamaras. If we are true to the obligations we have assumed, if it is hoped to forever settle this system of malicious prosecution of the men of labor, our duty is plain.

Funds must be provided to insure a fair and impartial trial. Eminent counsel has been engaged. Arrangements are proceeding that a proper defense may be made. The great need of the hour is money with which to meet the heavy drain incident to the collection of evidence and other necessary expense.

Every man who was connected with the kidnaping of the McNamaras will be prosecuted to the full limit of the law. It is proposed that the interests or organized labor shall be fully protected and punishment meted out to detective agencies that assume to be superior to the law. The rights of the men of labor must, shall be, preserved.

The men of labor, unlike the hostile organizations arrayed against us, have not vast sums of wealth to call upon, but they are imbued with the spirit of justice and are ever ready to make sacrifice for principle.

The trial of the McNamaras is set to commence on October 11. In the name of justice and humanity all members of our organizations are urgently requested to contribute as liberally as their ability will permit. All contributions toward the legal defense of the McNamara cases and for the prosecution of the kidnapers should be transmitted as soon as collected to Frank Morrison, 801–809 G Street NW., Washington, D. C., who will forward a receipt for every contribution received by him, and after the trial a printed copy of the contributions received, together with the expense incurred, will be mailed to each contributor.

Fraternally,

SAMUEL GOMPERS,
President American Federation of Labor.

Attest.

FRANK MORRISON, *Secretary.*

Senator ROOT. Mr. Davenport, I think we will have to suspend at this point.

Thereupon, at 12.50 o'clock p. m., a recess was taken until 3 o'clock p. m.

AFTER RECESS.

The committee reassembled at 3 o'clock p. m., pursuant to taking a recess.

STATEMENT OF DANIEL DAVENPORT—Continued.

Mr. DAVENPORT. In my remarks hitherto I think I have sufficiently explained to the committee the gigantic size of the combination which is here demanding at your hands this legislation, and also explained to you that the animating purpose and object of that great organization is to bring about in this country absolutely the closed shop; and, further, that they have at their command enormous sums of money.

I want to direct your attention to the fact that the great instrument by which they seek to accomplish their ends and effectuate their purposes is the boycott. That you may have a clear idea of what the American Federation of Labor understands by the boycott, let me read to you the resolution that was reported by the committee on boycotts and unanimously adopted by the convention of the American Federation of Labor in November, 1905. It is only one of a series, but it sufficiently explains the subject:

We must recognize the fact that a boycott means war, and to successfully carry on a war we must adopt the tactics that history has shown are the most successful in war. The greatest master of war said that "war was the trade of the barbarian, and the secret of success was to concentrate all your forces upon one point of the enemy—the weakest, if possible." In view of these facts, the committee recommends that the State federations and central bodies lay aside minor grievances and concentrate their efforts

and energies upon the least number of unfair parties or places in their jurisdiction; one would be preferable. If every available means at the command of the State federations and central bodies were concentrated upon one such, and kept up until successful, the next on the list would be more easily brought to terms, and within a reasonable time none opposed to fair wages, conditions, or hours but would be brought to see the error of their ways and submit to the inevitable.

Under the present system our efforts are largely wasted and our ammunition scattered. Let us reduce the boycotts to the lowest possible number and concentrate our efforts upon these, and we feel certain better results will be obtained.

That is what they understand by the boycott and what, too well, the citizens of the country understand it to mean. That that is its great weapon, its purpose of inauguration, the spur in carrying through such boycotts, we are not left in any doubt.

In a casual way, the other day—or in a brief way—I outlined to you the Danbury Hatters' case, the suit which was brought by myself in the United States Circuit Court for the District in Connecticut. That boycott and its methods are described in the report to be found in the case of Loewe *v.* Lawler. (208 U. S.) That boycott was carried through under the very efficient superintendence of my friend, Mr. Moffett, who sits here, and who was at that time the president of the United Hatters. That suit, you know, was an action for treble damages, brought under the seventh section of the Sherman Antitrust Act, upon the ground that these acts of which they were guilty were in violation of the Sherman Antitrust Act, being in restraint of trade between States.

To that complaint a demurrer was interposed in the circuit court. That was sustained pro forma and taken to the circuit court of appeals and certified by them to the United States Supreme Court. Thereupon, at the request of both parties, in order that the matters might be laid before the court and determined, the Supreme Court granted a certiorari and brought the whole record up. Your honors will find in the 208 United States, Loewe *v.* Lawler, precisely what steps were taken.

Senator NELSON. To what extent was their business ruined by them?

Mr. DAVENPORT. The first thing they did was to call out the union men. The next thing was to get the nonunion men together and tell them that if they continued to work for Loewe they would not work at hatting any more, because they would soon conquer them as they had in other cases many times before. They had been uniformly triumphant in their battles before. They then sent their agents out over the country to Loewe's customers and warned them, and so forth, the effect being that his business was all dried up.

In the testimony we took, in the trial of the case before the jury, the extent of the damages was shown, and the jury found damages of $74,000. That was the net damage, which was trebled, of course, under that section of the act.

But this concern had only $120,000 invested in the business, a little concern fighting this gigantic combination. When we got up in the Supreme Court, Mr. Gompers and Mr Morrison, in behalf of the American Federation of Labor, filed a petition to intervene in that court, in order that they might be heard. They stated that their interests were vitally affected. I propose now to read to you that petition, to show that the American Federation of Labor is nothing but a great gigantic, boycotting machine, existing in violation of the Sherman antitrust law in its operations and activities. It is they

that are asking for this legislation, and doing it in order that they may be permitted to continue those things which the courts have condemned.

Senator NELSON. Were they allowed to intervene?

Mr. DAVENPORT. They were.

Petition of the American Federation of Labor, a voluntary association, Samuel Gompers and Frank Morrison, for leave to intervene and be heard on the side of the defendants in error.

To the Supreme Court of the United States:

Your petitioners, the American Federation of Labor, Samuel Gompers, and Frank Morrison, mentioned in the complaint herein, respectfully show:

That said Federation of Labor is a voluntary association heretofore organized and having an office and place of business at the city of Washington in the District of Columbia; that it has a constitution heretofore regularly adopted and a membership consisting of many other voluntary associations; that the said Samuel Gompers mentioned in the complaint as the "chief agent" of your petitioner is its president and chief executive officer, and said Frank Morrison is its secretary; that the said United Hatters of North America mentioned in said complaint is one of the voluntary associations constituting said membership; that petitioners are financially and otherwise interested in the decision of the above-entitled case, and that a decision herein in favor of the plaintiff in error would seriously obstruct and hinder the said American Federation of Labor, petitioner, in carrying out the purposes for which it was organized and destroy, at least to some extent, its usefulness to its members, and would likewise and in a like manner injure said members.

Wherefore your petitioners respectfully pray that they may be permitted to file a brief and to be heard on the side of the defendants in error herein, and for such other relief as to the court may seem proper.

And in amplification of this petition your petitioners respectfully represent the following facts:

First. That the constitution of said American Federation of Labor, petitioner, makes special provision for the prosecution of boycotts, so called, when instituted by a constituent or affiliated organization as is described in the complaint filed in the district court by the plaintiff in error herein, through the agency and pursuant to the approval of the executive council of petitioner; but that what are alleged in said complaint to be boycotts are in reality legal and proper proceedings set on foot and carried on in order to accomplish lawful ends of your petitioner and of said affiliated or constituent associations.

Second. That under the provisions of said constitution many so-called boycotts have been and several are now being prosecuted by petitioner pursuant to approval of its said executive council.

Third. That all said so-called boycotts were, and those now being prosecuted are, so prosecuted in good faith in the belief and with an understanding that to do so was and is the exercise of a right and privilege guaranteed and protected by constitutions and laws, and that in approving and prosecuting them your petitioners incurred no legal liability to any person, firm, or corporation.

Fourth. That the said Samuel Gompers and Frank Morrison are party defendants in other actions involving, among others, the same issue that is involved in this case; and hereunder they specify that they, with other defendants who are also defendants in this case, are codefendants in an action now pending in the Superior Court of Fairfield County, State of Connecticut, in which the plaintiffs are the plaintiffs in this case, the issues being the same.

Fifth. And finally, that your petitioners are financially and otherwise interested in having a full, fair, and thorough hearing and adjudication of the legal issues involved herein by the Supreme Court of the United States, and in this connection allege that they verily believe that the issues involved will be more clearly presented and fully considered if they be permitted to intervene and be heard on the side of defendants in error and to submit a brief to the court.

Wherefore your petitioners pray for permission to file a brief herein on the side of the defendants in error in the above-entitled case now pending in said Supreme Court of the United States on writ of error, and for such other relief as to the court may seem proper.

THE AMERICAN FEDERATION OF LABOR.
SAMUEL GOMPERS.
FRANK MORRISON.
By T. C. SPELLING, *Attorney.*

Of course it is part of the general history of the country now as to what happened to that case. The Supreme Court unanimously decided that what is set forth in that complaint is unlawful at common law, and, second, that it is unlawful and forbidden by the Sherman Antitrust Act; and that therefore since it was within the provisions of the Sherman Antitrust Act, suits could be instituted in the United States circuit courts between citizens of the same State, being suits brought under that seventh section.

Thereupon, of course, the matter was remanded to the United State circuit court for trial. We tried it bejore the jury, occupying some three months, with the result that the jury, under instruction of the judge, rendered a verdict for $74,000 actual damages, which under that automatic provision of law was multiplied by three.

A writ of error was brought then to the United States Circuit Court of Appeals of the Second Circuit, and that court held there was an error in the charge because the judge instructed them that the evidence was so overwhelming and conclusive as to the responsibility of every individual defendant connected with it that he would withdraw from the jury those questions and submit to the jury only the question as to the amount of damages. Judge Lacombe, in giving the opinion of the court, which was adhered to on motion for reargument, said that while the evidence was very strong to sustain the individual liability of all the defendants, yet it would have been the proper thing for the court to do to submit to the jury the issue of fact as to the individual responsibility of each defendant. So the case was remanded for a new trial.

We endeavored to get the Supreme Court to grant a certiorari. You see it was not a final judgment, so we could not go up on writ of error. But that court has a rule that they will not by certiorari review cases where an appeal from the final judgment will ultimately lie. So on the 20th of August we are going into the trial of that case again before a jury.

I have merely indicated a few phases of this matter. I could take you over other cases that we have in the courts, as I referred to slightly the other day. You must all of you have seen enough of the reports to know the history of the Buck's Stove & Range case. That was a suit brought by the Buck's Stove & Range Co., which was a member of this organization that I have the honor to represent in the Supreme Court of the District of Columbia, to restrain a boycott, almost exactly similar to that which was engaged in in the Danbury Hatters' case.

Senator SUTHERLAND. By the way, was an injunction issued in connection with the Hatters' case?

Mr. DAVENPORT. I ought to explain that. When this warfare had gone on to such an extent that the result was ruin if we could not stop it, Mr. Loewe, the plaintiff, went out to California, where his principal customer was located, in San Francisco, and we brought a suit in the United States circuit court to enjoin the carrying on of the boycott there. We put in a great many affidavits. Judge Morrow granted an injunction after hearing. That injunction, after a long trial, a great deal of testimony being taken, was made permanent. From that an appeal was taken to the United States Circuit Court of Appeals for the Eighth Circuit, and there it was affirmed.

If my friends were really in earnest in their contention that this matter should be reviewed by the Supreme Court of the United States,

they had there their opportunity. There was that Danbury Hatters' Case. All those allegations made there, in Loewe *v.* Lawlor (208 U. S.), were sustained by the proof, and the judgment was affirmed when it got to the circuit court of appeals, yet they never took it any further.

But I was going, by way of illustration, to remind you of some of the cases that we have conducted. Many of them are in State courts, which we should be shut out of, I take it, in all those cases where the defendants could remove them into the United States courts—if having brought them into the State court they removed them into the United States court—if this law were passed and was valid.

I have in mind this case. There was a concern in Massachusetts, Irving & Kassan, a good many years ago, that was declared unfair by the carpenters' union. They had been carrying on for years this kind of warfare against them. Wherever the concern would bid for a contract anywhere in the country—they make fine woodwork—they would go to the gentleman and say, "If you buy any of that stuff or you let the contract to do any of the work, we will not work on the building; we not only will not install it but we will not work on the building, and other unions affiliated with us will not work on it either."

So it went on, much to their annoyance and injury until they secured a contract to put in the fine woodwork in the new Episcopal Cathedral in the city of New York. While they were engaged in it, the people building the cathedral—I do not know what particular officials—were notified that all the carpenters were going to strike if they allowed Irving & Kassan to do the work.

This was the result. They brought a suit in the United States circuit court and asked for an injunction to restrain the officers of these unions ordering the men not to work on those jobs. Notice was given to the other side, and I think we got a restraining order—at any rate, we got a temporary injunction. A great deal of testimony has been taken in regard to those matters. That case is pending in the United States circuit court. Should you pass this bill in its present shape, the court could not issue that permanent injunction, if the act was of any validity.

I have already told you in a crude way about those of our members who live in western cities and manufacture wood trim in open shops. They never discriminate against the union or nonunion men, employing them indiscriminately. But by reason of the ban put upon that material by an agreement between the builders in New York and the labor unions in New York, if any person should undertake to put in any of that stuff on any building, the people would strike, the unions would strike, and it would be impossible to go on with the business.

The result of it was, as I said the other day, that the manufacturers of wood trim in Wisconsin and other places are as absolutely shut out of the great market of New York as if there was a line of battleships ranging up and down the Hudson River for the purpose of preventing it.

These people finding their business being ruined, applied to the United States circuit court. The title of the case is the Payne Lumber Co. against the Carpenters' Union and others, including certain builders, as parties defendant. After a great deal of testimony was taken and affidavits put in on both sides, and an elaborate hearing before Judge Cox, we secured a temporary injunction. We have

gone on taking testimony in that case, volumes of it on both sides. We have put in our side and the other side is now about to put in theirs. If you pass this bill, if it is of any validity, that court could not issue a permanent decree. The plaintiffs went into the United States courts. They could have gone into the State court, but they went into the United States court because we were citizens of another State and had a right, under the Constitution and the laws that you have enacted, to go into that court.

However, I am sure I am bringing "coals to Newcastle" in telling you about these matters. I plant myself right here. Not only would this bill be most objectionable from the standpoint of public policy, not only would it be wrong, but I most respectfully assert that the Congress of the United States can not pass such a law and strip these people of their right to equitable relief.

Inasmuch as what I am saying is rather to furnish material so that the Senators will have before them data and material with which to come to a wise conclusion in regard to these matters, I want to go briefly over the history of this kind of legislation in Congress.

Senator SUTHERLAND. Before you begin on that, what particular provisions in this proposed bill do you think would legalize, so far as the injunctive power of the court is concerned, the secondary boycott.

Mr. DAVENPORT. All of page 4 and, of course, particularly, "Peacefully persuading any person to work or to abstain from working or from ceasing to patronize or to employ any party to such disputes."

Senator SUTHERLAND. That seems to be confined to a party to the dispute.

Mr. DAVENPORT. Well?

Senator SUTHERLAND. I want to get your understanding of it. I am not able myself to put my finger upon any precise language which would legalize the secondary boycott.

Mr. DAVENPORT. It does not legalize it, the Senator will understand.

Senator SUTHERLAND. I do not mean legalize in the sense that you can not bring an action for damages, but I mean as to the injunctive power of the court.

Mr. DAVENPORT. Take this case of "Peacefully persuading any person to work or to abstain from working, or from ceasing to patronize or to employ any party to such dispute." My understanding is that the operations of labor unions in going to a man and saying, "Now, here, if you trade with him we will not trade with you," will come within that clause.

Of course, you understand that the provisions of the Sherman Antitrust Act are very much broader and more comprehensive than the common law, because mutual agreements that are in restraint of interstate trade are forbidden by that act whether they are voluntary or involuntary.

I will give you an illustration of what I understand would be a legalized boycott—we will call it that for short. The injunctive process could not be used in this case. You will remember the great railroad strike of 1894, which grew up in this way. The Pullman Co., manufacturer of cars, had trouble with its employees, and because it would not yield, these employees having joined the American Railway Union, I think, the American Railway Union, which

was composed of various brotherhoods, entered into this combination. They refused to handle the cars of the Pullman Co. There was not any coercion about it. They peacefully agreed that they would not do that which the law said they must do. As long as they continued to work for the railroad company they were obliged under the law and under criminal penalty to do these things, but they simply peacefully quit working.

Then you will remember the Ann Arbor case, which was this: The Ann Arbor Road had some trouble with its employees. The employees of the Pennsylvania Co. were ordered by Mr. Arthur not to haul the cars of the Ann Arbor Co. The Ann Arbor Co. went into a court of equity and made the Pennsylvania Co., Mr. Arthur, and the various officers of the unions parties defendant. Chief Arthur had issued an order to his engineers not to haul any of those cars, and he acted under what was known as rule 12 of the brotherhood, which gave him that authority, and when the order was given it became the duty of every locomotive engineer to obey him.

You will remember that Judge Taft issued an injunction, a temporary injunction and a mandatory one, ordering him to rescind all his actions. The case went into court, and to the everlasting credit of Mr. Arthur he obeyed the order of the court. His order was rescinded and the question came up, was that an illegal provison in the constitution of the brotherhood. Judge Taft, as you will remember, very ably and very clearly and very elaborately demonstrated that that rule was in violation of the Sherman antitrust act, that it was in violation of the interstate-commerce act, and that it was a boycott at common law.

Every one of those acts, if I understand this matter correctly, if this bill were passed and it was of any validity and that construction was given to it which the gentlemen who advocate it and want it contend for, the court would be powerless to enjoin. And so of all boycotts.

Right here, I ask you gentlemen, as lawyers, what does this last section mean? I have had my doubts whether the courts would not say that that last sentence colors the whole thing—"or from doing any act or thing which might lawfully be done in the absence of such disputes by any party thereto."

Does not that show that the purpose, and would not the court say, that the purpose was simply to declare the law as it is now. This is entitled an anti-injunction bill, and the whole scope and purpose of it is regulating the matter of practice, and so forth, of injunctions. You will find, if you care to look into this matter, that the courts quite generally, when they are confronted with the necessity of saying that that law is unconstitutional if one construction is adopted, resort to another construction which will if possible sustain it.

You had a very notable case of that the other day in the Supreme Court of the United States, in the lighterage case, where a provision very similar to what is put in the first part of this bill was held by the Supreme Court of the United States to have a very limited scope. In the oral announcement of the case they said any other construction than that would be unconstitutional, and they therefore sustained it by so construing it as to enable them to do so.

Senator SUTHERLAND. I was asking you that question not for the purpose of antagonizing what you were saying, but I wanted to get a

clear idea of your position. Take the Pullman strike in which, as I remember it, the railroad companies were notified that if they did not cease to patronize the Pullman Co.—hauling the cars—strikes would be declared against these railroad companies, and strikes were declared against them.

Mr. DAVENPORT. Yes.

Senator SUTHERLAND. That would be an illustration of the secondary boycott, as I understand it.

Mr. DAVENPORT. The principle of the secondary boycott.

Senator SUTHERLAND. The principle of the secondary boycott, then. In your opinion, would that be covered by the language of this bill which so far as that is concerned, reads:

> Of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute?

Mr. DAVENPORT. I suppose that is the purpose of it, and I suppose if you passed it in such shape that the courts said that was not the purpose of it, the gentlemen that are asking for it would contend that the courts had again evaded and misconstrued the law, and excite hostility toward the courts. As to their purpose, we have never been favored by any presentation of the views of the gentlemen who advocate this particular measure.

Senator SUTHERLAND. At any rate, it is your idea that that language is inserted in this bill for that purpose.

Mr. DAVENPORT. Surely it is. But I want to emphasize what I said this morning, that you must remember no act is innocent, no act is lawful which is done in carrying out an unlawful conspiracy, unlawful either because it is accomplishing an unlawful end or it is done for the purpose of accomplishing a lawful end by unlawful means. When you have such a conspiracy every act that is done becomes unlawful.

Senator ROOT. Is it your idea that the provisions of section 266–C, which appear on page 4 of the bill, enumerating a lot of things which shall not be prohibited by a restraining order, extend to the non-prohibition of such acts when they are in aid of an unlawful purpose?

Mr. DAVENPORT. Of course, that is the only ground on which they could be enjoined or ever are enjoined. You can not enjoin them from doing lawful acts. A court of equity will turn you out in a minute unless you bring your case within the jurisdiction of the court. You have to show that unlawful acts are being done, you have to show why they are unlawful, you have to show the injury is irreparable, and you have to show you have not that adequate remedy at law which is essential. The law now is that if these things are lawful they can not be enjoined by a court of equity; they will not be and they never are. It is only when they are means to carrying out an unlawful purpose. Some of them are in themselves perhaps unlawful.

That this may be cleared up a little let me recur to the history of this legislation. You will remember that in 1893 and 1894 there occurred those great railroad strikes. Immediately the cry went up against Government injunction. The particular phase of government by injunction that was so obnoxious was that the Federal Government, instead of using the military arm of the Government to put down the obstruction to the interstate commerce of the country

and the obstructions to the carriers of mails, filed a petition in the United States circuit court asking for an injunction to prevent the doing of these things.

By the way, the authority on which that action was taken by the Attorney General, and afterwards sanctioned by the Supreme Court in the Debs case, was a little case up in Connecticut, the Stamford Horse Railway Co. against the Borough of Stamford (58 Conn.), where the borough of Stamford, having full right to go and tear up the rails on the streets, preferred to go into a court of equity, which was sustained by the court. When the Government was hunting around for authority on which to base its action they found this case, and later the Supreme Court, in the case of Debs (158 U. S.) based it upon that doctrine.

Senator NELSON. One case which I think wrought up the labor people more than anything else was the Northern Pacific case, where they were enjoined from quitting.

Mr. DAVENPORT. That is the case of Arthur *v.* Oakes.

Senator NELSON. That was modified by Judge Harlan on circuit.

Mr. DAVENPORT. In what respect?

Senator NELSON. Judge Jenkins issued the order finally that expressly enjoined men from quitting work, and that is what started the feeling more than anything else.

Mr. DAVENPORT. Mr. Senator, if you will look at the record and refresh your recollection about the matter, you will see that you have not quite stated it. Judge Jenkins enjoined them from quitting where the effect of their quitting was to cripple the operation of the road. He further enjoined them in many things that would be forbidden by this act.

When the matter came before the circuit court of appeals, Judge Harlan rendered the opinion, in which he said that that particular part of the injunction was wrong; that a man had a right to quit, and had a right to quit in concert, even if the effect of their quitting was to injure the road; but that they had no right to quit for the purpose of crippling the operation of the road. That injunction as modified, you will see, covers a vast deal. It is not, as people think, that the circuit court of appeals said, "You can not enjoin a man from quitting." You can enjoin a man from quitting under a great many circumstances. Of course, in some instances you can not.

But what did the opponents of the action of the Government then say? They said "That is government by injunction. The Government goes and gets an injunction and then when a man violates the injunction it brings him up and tries him and sends him to jail by order of the judge; that is government by injunction."

The great party to which I belong, the Democratic Party, contended—made it a principle—that government by injunction was to be put an end to. You will remember that in 1896, just before the Democratic convention, Senator David Bennett Hill, of New York, introduced what was called a contempt bill. It was reported by this committee through him to the Senate. That bill when reported did not contain any provision requiring trial by jury in that case; but at the close of the session, the last day or two, when they could not keep a quorum, the bill was pushed on. Thereupon a distinguished Senator from Senator Sutherland's State, a Populist by the name of Cannon, and another Populist Senator from North Carolina

by the name of Butler, got together and they cooked up an amendment.

Senator SUTHERLAND. I want to correct you, at least to say, that Mr. Cannon was not elected upon the theory that he was a Populist.

Mr. DAVENPORT. While I am talking about that I want to call your attention to the circumstances under which that passed the Senate. I took occasion to look it up to see how far Senator Hill was responsible for that. It is interesting, and it will not be out of place here. It is short, and will avoid my saying it some other time. This is what appears by the record in the Congressional Globe in regard to the passage of this bill, which is made one of the planks of the present Democratic platform:

The VICE PRESIDENT. Forty-five Senators have answered to their names. A quorum is present.

Mr. PETTIGREW. I move that the Senate proceed to the consideration of executive business.

Mr. HILL. I hope that motion will not prevail at present, until this bill is disposed of.

Mr. PETTIGREW. I wish to say that I do not make the motion for the purpose of hindering the passage of the pending bill. I think, perhaps, if we should go into executive session, it might facilitate the passage of the bill.

Mr. HAWLEY. An executive session for a few minutes?

Mr. PETTIGREW. For a very few moments only.

The VICE PRESIDENT. The question is on the motion of the Senator from South Dakota, that the Senate proceed to the consideration of executive business.

The motion was not agreed to.

The VICE PRESIDENT. The question recurs on the amendment submitted by the Senator from North Carolina [Mr. Butler] as modified by the amendment submitted by the Senator from Utah [Mr. Cannon].

Mr. PLATT. What has become of the motion to postpone?

The VICE PRESIDENT. The Chair will entertain that motion. The Chair inadvertently overlooked the motion of the Senator from Connecticut.

Mr. PLATT. I made a motion to postpone. A division was taken, and no quorum appeared. Now a quorum is present.

The VICE PRESIDENT. The Chair will put the motion. At the time it was developed that there was no quorum present the Senate was divided. A division had been called for. Senators opposed to the motion to postpone the bill until the first Monday in December will rise and stand until they are counted.

Mr. PLATT. I have no desire to embarrass the proceedings of the Senate. If I may do so I will withdraw the call for a division.

The VICE PRESIDENT. Is there objection? The chair hears none, and it is so ordered. The question recurs upon the amendment of the Senator from North Carolina as modified by the amendment of the Senator from Utah.

Mr. PEFFER. What is the present status of the amendment?

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to amend the bill by striking out, in line 18 of section 4, the words "in its discretion," and in line 19 by striking out the word "may" and inserting the word "shall," so as to read:

"But such trial shall be by the court, or, upon the application of the accused, a trial by jury shall be had as in any criminal case."

The amendment was agreed to.

Mr. ALLEN. I desire to withdraw the amendment I offered to the bill on yesterday.

The VICE PRESIDENT. The amendment submitted by the Senator from Nebraska is withdrawn.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was then read the third time.

Mr. PLATT. I protest against the passage of an important bill in this way. I ask that the vote be put.

The VICE PRESIDENT. The chair submits to the Senate the question on the passage of the bill. Shall the bill pass?

The bill was passed.

That is the history of the passage through the Senate of the law which provides for a trial by jury in contempt cases. It had its origin not in Senator Hill or with this committee, but it had its origin on the floor of the Senate when it appeared by some of the discussions that there were not 15 Senators present.

Our labor friends started then systematically, session after session, for the purpose of getting the laws changed. Here is the law which for 10 years they advocated. It passed the House, was referred to this committee; it was reported favorably by this committee with an amendment by Senator Hoar; and that amendment destroyed the desirability of it for its friends. I want to read it.

Senator NELSON. Read the bill and read the amendment.

Mr. DAVENPORT. This was introduced in the House by Gen. Grosvenor, passed the House, was referred to this committee, and reported on May 23, 1902, by Senator Hoar, with an amendment to insert the part printed in italics:

AN ACT To limit the meaning of the word "conspiracy" and the use of "restraining orders and injunctions" in certain cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no agreement, combination, or contract, *not involving injury to property or breach of peace—*

The last nine words were in italics, being inserted by the committee, "not involving injury to property or breach of peace."

Senator NELSON. That was my amendment.

Mr. DAVENPORT. Then I am telling old stories to the Senator.

by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees in the District of Columbia or in any Territory of the United States, or between employers and employees who may be engaged in trade or commerce between the several States, or between any Territory and another, or between any Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce, nor shall any restraining order or injunction be issued with relation thereto. Nothing in this act shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy for which punishment is now provided by any act of Congress, but such act of Congress shall, as to the agreements, combinations, and contracts hereinbefore referred to, be construed as if this act were therein contained.

That is the bill which we used to come down here to meet, session after session.

Senator SUTHERLAND. What was the amendment Senator Hoar proposed?

Mr. DAVENPORT. "Not involving injury to property or breach of peace." They are in italics in this bill.

Nineteen hundred and four is, I think, the first time I appeared upon the scene, and we used to battle before the House Judiciary Committee over that bill. We never got over here at that time. In 1905, at the December session, they introduced another bill which has been a famous bill. They had become satisfied that such a law as is proposed there was an impossible law, and so this bill was introduced. It was drawn by Mr. T. C. Spelling, who was then their attorney, a very able man, and the author of some very fine works on injunctions. That was introduced by Mr. Pearre, by request.

Senator SUTHERLAND. Is he the author of the work on "Extraordinary Remedies"?

Mr. DAVENPORT. Yes.

This is the way they got at it:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and an employee, or between employers and employees, or between employees, or between persons employed to labor and persons seeking employment as laborers, or between persons seeking employment as laborers, or involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be particularly described in the application, which must be in writing and sworn to by the applicant or by his, her, or its agent or attorney. And for the purposes of this act no right to continue the relation of employer and employee or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind, or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

Section 2 was aimed at getting rid of what is the essentials of conspiracy:

That in cases arising in the courts of the United States or coming before said courts or before any judge or the judges thereof no agreement between two or more persons concerning the terms or conditions of employment of labor, or the assumption or creation or termination of any relation between employer and employee, or concerning any act or thing to be done or not to be done with reference to or involving or growing out of a labor dispute, shall constitute a conspiracy or other criminal offense or be punished or prosecuted as such unless the act or thing agreed to be done or not to be done would be unlawful if done by a single individual, nor shall the entering into or the carrying out of any such agreement be restrained or enjoined unless such act or thing agreed to be done would be subject to be restrained or enjoined under the provisions, limitations, and definition contained in the first section of this act.

That bill, session after session, in 1906 and 1907, we met, and the point of attack always was "that those things which you say are not property are property by the law of every State in this Union and by the Federal courts. As I said the other day, in the Adair case (208 U. S.) the Supreme Court itself laid down the doctrine. Still they contended for it until, you remember, in the summer of 1908 the presidential election came on.

The Democratic Party—that is my party—adopted the same platform that was adopted the other day on these propositions, although, as I understand it, they specifically, in this last platform, indorsed this present bill. But in October Mr. Gompers came out with a statement to the members of his organization and their sympathizers to the effect that the Demorcatic Party stood pledged to pass that Pearre bill.

That statement was published in the newspapers on the 13th day of October, 1908, and thereupon the President of the United States, Mr. Roosevelt, wrote a letter to Senator Knox, under date of October 21, 1908, which I will ask the privilege of inserting in the record for the information of the members of the committee, in which he takes up and analyses the subject with great skill—Mr. Knox himself could not have analyzed it with more legal acumen—and called upon Mr. Bryan to say whether he stood for that bill or not, whether, as Mr. Gompers said, the Democratic Party stood for it. Mr. Bryan never answered that letter.

Without taking up any more of your valuable time, I will ask that it be inserted for your information.

Senator ROOT. That may be done without objection.

Mr. DAVENPORT. The letter is as follows:

WASHINGTON, *October 21, 1908.*

MY DEAR SENATOR KNOX: In your admirable speech of yesterday you speak of the action of Mr. Bryan and certain gentlemen claiming to be the special representatives of organized labor, foremost among them Mr. Gompers, to secure the support of laboring men for Mr. Bryan on consideration of his agreement to perform certain acts nominally in the interests of organized labor, which would really be either wholly ineffective or else of widespread injury not only to organized labor but to all decent citizens throughout this country. You have a peculiar right to speak on labor questions, for it was you who, as Attorney General, first actively invoked the great power of the Federal Government on behalf of the rights of labor, when for the first time in the history of the Government, you, speaking for the Department of Justice, intervened in a private lawsuit which had gone against the widow of a brakeman and by your intervention secured from the Supreme Court a construction of the safety-appliance act which made it a vital remedial statute and therefore has secured to hundreds of crippled employees compensation which they would not otherwise have obtained.

LETTER FROM GOMPERS.

The daily papers of October 13 contained an open letter from Samuel Gompers, president of the American Federation of Labor, appealing to workingmen to vote for Mr. Bryan.

In that letter are certain definite statements which interest the wider American public quite as much as those to whom Mr. Gompers makes his appeal. These statements warrant all you have said in your speech, and they would warrant you in asking Mr. Bryan to say publicly whether Mr. Gompers states correctly the attitude of his party and himself on a subject that is of vital concern to every citizen, including every business man, as well as every farmer and every laboring man who looks to the courts for the protection of his rights.

Mr. Gompers in his letter asserts that the judiciary of this country is destroying democratic government and substituting therefor an irresponsible and corrupt despotism in the interests of corporate power, and he further makes clear that the means by which he believes that this alleged despotism has been set up in the place of democracy is by the process of injunction in the courts of equity.

Mr. Gompers in his letter states that his appeal to the Republican convention at Chicago for remedy against the injunction was denied, and he then goes on to state not only that the Democratic Party promised a remedy but promised him the particular remedy that he had already asked of Congress.

His words are:

"Labor's representatives then went to the Democratic Party. That party made labor's contentions its own. It pledged its candidates for every office to those remedies which labor had already submitted to Congress."

The last sentence of this quotation indicates very definitely the specific remedies to which Mr. Gompers understands Mr. Bryan's party has pledged itself.

His statement now makes perfectly clear an important plank in the Bryanite platform which has heretofore seemed puzzling to a vast number of earnest-minded, thinking people, who are sincerely interested in the steady advance and the legitimate aspirations of labor, and who carefully read both platforms to know precisely what hopes each held out for the improvement of the condition of wage earners.

That plank reads as follows:

"Questions of judicial practice have arisen, especially in connection with industrial disputes. We deem that the parties to all judicial proceedings should be treated with rigid impartiality, and that injunctions should not be issued in any cases in which injunctions would not issue if no industrial dispute were involved."

REMEDY PROMISED.

This is the plank that promises the "remedy" against injunctions which Mr. Gompers asked of Mr. Bryan's party. In actual fact it means absolutely nothing; no change of the law could be based on it; no man without inside knowledge could foretell what its meaning would turn out to be, for no man could foretell how any judge would decide in any given case, as the plank apparently leaves each judge free to say when he issues an injunction in a labor case whether or not it is a case in which an injunction would issue if labor were not involved. Yet this plank is apparently perfectly clear to Mr. Gompers, and in his letter to his followers he indicates beyond question just

what he understands it to mean. He asserts that he has the requisite inside knowledge. His statement that it was Mr. Bryan's party (for it was Mr. Bryan who dictated the platform) pledged itself "to those remedies which labor had already submitted to Congress" is a perfectly clear and definite statement.

The "remedies" which Mr. Gompers has already submitted to Congress are matters of record and the identification of his "remedy" against injunctions in labor disputes is easy and certain. This "remedy" is embodied in House bill No. 94 of the first session of the Sixtieth Congress, the complete text of which is hereto appended.

The gist of the bill, as can be seen by referring to the complete text, is this:

First. After forbidding any Federal judge to issue a restraining order for an injunction in any labor dispute, except to prevent irreparable injury to property or a property right, it specifically provides that "no right * * * to carry on business of any particular kind or at any particular place or at all shall be construed, held, considered, or treated as property or as constituting a property right."

Second. It provides that nothing agreed upon or done by two or more parties in connection with a labor dispute shall constitute a conspiracy or other criminal offense to be prosecuted as such unless the thing agreed upon or done would be unlawful if done by a single individual.

The bill here described is not only the "remedy" that Mr. Gompers "already submitted to Congress," but it is the one and only remedy which he and those associated with him in his present movement have announced that they will accept in the matter of his grievance against the courts on the injunction issued.

FEDERATION ON RECORD.

The counsel for the American Federation of Labor and Mr. Gompers, its president, are both on record to this effect.

At a hearing before the House Committee on the Judiciary the counsel for the American Federation of Labor on February 5, 1908 (as appears from the printed hearing) stated:

"The bill was considered by at least two sessions of the executive council of that organization and unanimously approved. It was considered by two of its national conventions—the two latest—and by them unanimously indorsed. And in the face of many propositions to amend it; in the face of many proposed substitutes; in the face of pressure from every direction, from high sources, and sources not so exalted the organization has stood by and is to-day standing by this bill without amendments."

Mr. Gompers himself in discussing this bill before the same committee on February 28, 1908 (as appears from the printed hearing), went on record as follows:

"Events have demonstrated clearly to my mind that there is only one bill before the committee that can at all be effective to deal with this abuse, with this invasion of human rights, and that is the Pearre bill."

Further on in the same page of the hearings, Mr. Gompers states:

"I will say this, that I think I will try to make my position clear that the American Federation of Labor has so declared itself that it must insist upon the principles involved in the Pearre bill, and that I explained as best I could the position of labor, that we would rather be compelled to bear the wrongs which we have for a longer period than to give our assent to the establishment of a wrong principle, believing and knowing that time would give the justice and relief to which labor—the working people—are entitled."

This bill, then, and none other, represents exactly the relief that Mr. Gompers demands in the way of anti-injunction legislation; and if the statement in his letter is correct, this bill represents what Mr. Bryan and his party are pledged to in the matter of anti-injunction legislation.

The injunction plank in the Bryanite platform may sound vague and hazy, but there is nothing vague or hazy about this bill.

It is more than a bill; it is a program of the most fixed and definite kind; and if Mr. Gompers is correct this bill becomes, as it were, an authorized appendix to Mr. Bryan's platform or a footnote explaining in detail the briefer and vaguer injunction plank in that platform.

Does Mr. Bryan accept it as such?

Mr. Bryan should state publicly whether he in fact accepts the principle of this bill, which is the official program of Mr. Gompers and those who stand with him.

Mr. Gompers announces publicly that Mr. Bryan's party has made this program its own. Is Mr. Gompers correct in his statement?

Either Mr. Gompers is mistaken as to what Mr. Bryan's party has promised him in this matter of anti-injunction legislation or those who drafted his party's platform in their haste failed to make the promise so clear that the general public would understand it precisely as Mr. Gompers understood it.

Mr. Bryan failed in his letter of acceptance to discuss this labor plank of his party's platform. So far as I am aware he has failed to discuss it since.

There should be such discussion as a matter of common fairness, not only to labor, but to all citizens alike. On a question of such grave consequence the people are entitled to know where Mr. Bryan stands.

Mr. Taft has repeatedly explained exactly where he stands in this matter of regulating injunctions.

Are we not entitled to know with equal clearness exactly where Mr. Bryan stands?

Mr. Gompers's public statements as to what his party has promised make it imperative that Mr. Bryan declare himself.

This bill, to the principle of which he says Mr. Bryan is pledged, declares that the right to carry on a lawful business in lawful way shall not be regarded as a property right or entitled to the protection of a court of equity through the process of an injunction and that the right to such protection, which admittedly now exists under the law, shall be taken away.

WHAT GOMPERS PLANNED.

The counsel for the American Federation of Labor in his argument before the House committee on February 5, at which Mr. Gompers himself was present, gave a very frank illustration of what he and Mr. Gompers perceived to be the consequences of that provision of this bill which says that the right to carry on business shall not be entitled to protection as a property right.

His words are: "Suppose that working men by some operation or proceedings in the community (let us say by violence or persuasion or picketing away from the premises) reduce those works to a state of utter helplessness, and there was not a wheel moving nor a process in operation, and this company had no help at all—that would be an interference with his right to do business, and for that I say he has no right to be protected by injunction."

Is Mr. Bryan in reality pledged to this point of view?

Will he definitely say either in writing or in public address whether he believes with Mr. Gompers that the protection heretofore afforded by the courts of equity to the right to carry on a lawful business in a lawful way is despotic power, and that the judges who exercise that power are irresponsible despots?

So far as the second section of this bill is concerned it is perfectly clear that it would legalize the black list and the sympathetic boycott carried to any extent. It would legalize acts which have time and again been declared oppressive, unjust, and immoral, by the best and most eminent labor leaders themselves.

Does Mr. Bryan believe that Mr. Gompers—that he and that part of the labor movement that agrees with him—has the right morally, and should be given the right legally, to paralyze or to destroy with impunity the business of an innocent third person against whom neither he nor they have any direct grievance simply because the third person refuses to join with them aggressively in a labor controversy with the real merits of which he may be utterly unacquainted, because he refuses to class as his enemy any and every other employer whom they point out as their enemy, because he refuses, merely upon their peremptory order, to excommunicate some other employer by ceasing all business relations with him? The black list and the secondary boycott are two of the most cruel forms of oppression ever devised by the wit of man for the infliction of suffering on his weaker fellows.

DESPOTIC POWER.

No court could possibly exercise any more brutal, unfeeling, or despotic power than Mr. Gompers claims for himself and his followers in the legislation which would permit them without let or hindrance of any kind to carry on every form and degree of the secondary boycott.

The anthracite strike commission, as fair-minded and distinguished a body of men as ever passed judgment on an industrial question, thus refers to the secondary form of boycott; that is, the boycott of innocent third persons for refusing to take an aggressive part in a controversy with which they have no concern.

"To say this is not to deny the legal right of any man or set of men voluntarily to refrain from social intercourse or business relations with any persons whom he or they, with or without good reason, dislike. This may sometimes be unchristian, but it is not illegal. But when it is a concerted purpose of a number of persons not only to abstain themselves from such intercourse, but to render the life of their victim miserable by persuading and intimidating others so to refrain such purpose is a malicious one, and the concerted attempt to accomplish it is a conspiracy at common law, and merits and should receive the punishment due such a crime."

The commission further states that this boycott can be carried to an extent "which was condemned by Mr. Mitchell, president of the United Mine Workers of America, in his testimony before the commission, and which certainly deserves the reprobation of all thoughtful and law-abiding citizens."

Does Mr. Bryan agree with Mr. Gompers that all existing legal restraint on the enforcement of every degree of the boycott should be withdrawn, that the industrial excommunication of the innocent merchant who refuses to render unquestioned obedience to the orders of Mr. Gompers should be legalized and encouraged, or does he believe with us and with Mr. Mitchell and other labor leaders who differ with Mr. Gompers in this matter that this form of the boycott is morally wrong, that labor at war should fight with its enemies and respect the rights of neutrals; that innocent third parties should not be coerced into taking sides in industrial disputes to which they are in no sense parties, under penalty of having their business attacked and destroyed?

Mr. Taft is perfectly definite on this proposition.

Where does Mr. Bryan stand?

The citizen who votes for or against Mr. Taft on this proposition does so with his eyes open and with a clear understanding from Mr. Taft himself of his position. He has frankly discussed this subject time and again with workingmen themselves, both in this campaign and prior to his nomination. He has been willing to express his position clearly, and to assure workingmen that to protect them in their rights he is willing to go to the limits of what he considers justice, but that he will not go further. His definition of justice to labor does not, as we understand it, include either of the principles contained in Mr. Gompers's program, as set forth officially in the bill.

Does Mr. Bryan disagree with Mr. Taft on these propositions?

Will he state publicly, definitely, categorically, whether he accepts the program outlined in this bill, as Mr. Gompers in his letters has assured the public that he does?

TRIBUTE FROM BRYAN.

Mr. Bryan's party platform paid a high tribute to our courts of justice. It stated:

"We resent the attempt of the Republican Party to raise a false issue respecting the judiciary. It is an unjust reflection upon a great body of our citizens to assume that they lack respect for the courts."

The "great body of our citizens" to whom this platform refers is admittedly Mr. Gompers and his followers.

Mr. Gompers, now Mr. Bryan's open and avowed ally, has in the letter quoted attacked the Federal courts in unmeasured terms of reproach because by a long line of decisions the equity courts have refused to make an outlaw of the business man, because his right to carry on a lawful business under the peace of the law has been protected by the process of injunction; because, in a word, one of the most vital and most fundamental rights of the business world, the right of a business man to carry on his business, has been sustained and not denied by the processes of the courts of equity. This sweeping attack of Mr. Gompers upon the judiciary has been made in a frank and open effort to secure votes for Mr. Bryan.

Are these attacks made with Mr. Bryan's consent?

Do they meet with his approval?

Does he indorse them or does he repudiate them?

Mr. Bryan has frankly questioned Mr. Taft during the progress of this campaign, and very properly so, and has asked him to make clear his personal stand on public matters upon which the public was entitled to be enlighted.

In turn, with equal frankness and with equal propriety, Mr. Bryan should be asked to break a long-contined silence and make definite and certain his own position in regard to a matter that concerns not only business men and every decent law-abiding citizen, whether a wageworker or not, just as much as it concerns Mr. Gompers and that part of organized labor that stands with him.

There is no need of generalities, of vague expressions of sympathy for labor. Let Mr. Bryan simply confine himself to the anti-injunction plank of his own platform and tell us publicly, definitely, and clearly whether he accepts or rejects the statement of Mr. Gompers that this plank pledges him to the principles of the bill for which Mr. Gompers stands and whether if elected he will endeavor to have this proposal enacted into the law. This is asked honestly in the interest of that large voting public which believes sincerely in the promotion of every legitimate right and interest of labor; but which believes also that from the standpoint of the best interest of labor it neither requires nor is entitled to more than justice, and that the right to destroy business should not be formally recognized in the law of the land.

REALIZES RIGHT TO SPEAK.

I feel that I have the right to speak frankly in this matter, because throughout my term as President it has been my constant object to do everything in my power, both

by administrative action and by endeavoring to secure legislative action, to advance the cause of labor, protect it from unjust aggression, and secure to it its legitimate rights. I have accomplished something; I hope to accomplish more before I leave office, and I have taken special and peculiar interest in Mr. Taft's candidacy, because I believe of all the men in this country he is the man best qualified for continuing the work of securing to the wageworkers of the country their full rights. I will do everything in my power for the wageworkers of the country except to do what is wrong. I will do wrong for no man; and with all the force in my power I solemnly warn the laboring man of this country that any public man who advocates doing wrong in their interests can not be trusted by them, and this whether his promise to do wrong is given knowing that it is wrong or because of a levity and lack of consideration which make him willing to promise anything without counting the cost if thereby support at the moment is to be purchased.

WILL FIGHT ABUSES.

Just as I have fought hard to bring about in the fullest way the recognition of the right of the employee to be amply compensated for injury received in the course of his duty, so I have fought hard and shall continue to fight hard to do away with all abuses in the use of the power of injunction. I will do everything I can to see that the power of injunction is not used to oppress laboring men. I will endeavor to secure them full and equal justice. Therefore, in the interest of all good citizens, be they laboring men, business men, professional men, farmers, or members of any other occupation, so long as they have in their souls the principles of sound American citizenship, I denounce as wicked the proposition to secure a law which, according to the explicit statement of Mr. Gompers, is to prevent the courts from effectively interfering with riotous violence when the object is to destroy a business and which will legalize a black list and the secondary boycott, both of them the apt instruments of unmanly persecution.

But there is another account against Messrs. Bryan and Gompers in this matter. "Ephraim feedeth on wind." Their proposed remedy is an empty sham. They are seeking to delude their followers by the promise of a law which would damage this country solely because of the shown moral purpose that would be shown by putting it upon the statute books, but which would be utterly worthless to accomplish its avowed purpose. I have not the slightest doubt that such a law as that proposed by Mr. Bryan would, if enacted by Congress, be declared unconstitutional by a unanimous Supreme Court—unless, indeed, Mr. Bryan were able to pack this court with men appointed for the special purpose of declaring such a law constitutional. I happen to know that certain great trust magnates have announced within the past few weeks, in answer to the question as to why they were openly or secretly favoring the election of Mr. Bryan, that the laws that Mr. Bryan proposed, including especially this law, would be wholly ineffective because the court would undoubtedly throw them out and that the promises to enact them could, therefore, be safely disregarded. * * *

Sincerely, yours,

THEODORE ROOSEVELT.

I simply say I think that defeated my party—that letter of President Roosevelt.

The associate counsel of our association, Mr. Walter G. Merritt, has prepared a brief analysis of some of the arguments against section 266 of the Clayton anti-injunction bill, which cites the cases and will be of valuable assistance to the committee. I would ask leave to insert that as part of my remarks, for your information.

Senator ROOT. That may be inserted, without objection.

Mr. DAVENPORT. The analysis is as follows:

ANTI-INJUNCTION LEGISLATION.

Some arguments directed more particularly against section 266c of the "Clayton anti-injunction bill" (H. R. 23635). Prepared by counsel for the American Antiboycott Association.

Full text of the bill will be found on last pages of this pamphlet.

The proposed measure, among other things, forbids the issuance of injunctions restraining any person or persons—

1. From stopping work.
2. From picketing.

3. From persuading any other person to cease work or not to perform work.
4. From persuading any other person to cease patronizing any person.
5. From giving money or things of value as strike benefits.

These matters seem innocent enough in themselves and never are, and never should be, enjoined except in cases where they form one of the means whereby illegal and oppressive conspiracies are enforced. In these days when combinations of labor are veritable armies in discipline and numbers, criminal conspiracies of a most heinous character may have no other basis than the organized withdrawal of patronage or or withdrawal of employees. Barring the resort to violence and dynamite, the matters mentioned in this proposed law cover the whole gamut of labor conspiracies. You might as well pass a law forbidding the issuance of injunctions against the purchase or ownership of stock when you know that it is the principal means of fostering dangerous monopolies. The purchase or ownership of stock or a manufacturing plant seems innocent enough in itself, as well as does persuasion of people not to patronize or not to work for given persons under given circumstances, but the use of these otherwise innocent means by powerful combinations of labor and capital for oppressive purposes bring about grave results in the body politic.

"No conduct has such an absolute privilege as to justify all possible schemes of which it may be a part. The most innocent and constitutionally protected of acts or omissions may be made a step in a criminal plot, and if it is a step in a plot, neither its innocence nor the Constitution is sufficient to prevent the punishment of the plot by law." (Aiken *v.* Wisconsin, 195 U. S., 194.)

Strikes or boycotts conducted against a person with whom there is a trade dispute are one thing, but secondary strikes and boycotts conducted against third and neutral parties for the purpose of compelling that neutral party to abandon business relations with some third party have at all times been declared illegal and are fraught with the most serious consequences.

The organized bestowal and withdrawal of patronage and the organized bestowal and withdrawal of labor in these days of combinations of labor and capital exercises a potency unequaled by any other form of combination. By these methods alone competition is stifled and monopoly reaffirmed, the independent trader ruined by the trust, and the nonunion man driven from his trade by the union. Yet it is proposed to prohibit a court of equity under any and all circumstances from restraining a trust or a union or anyone from inducing any combination of people not to work for or patronize any other person, even though the object and purpose of the act may be some heinous trade offense contrary to the public policy of this and all other ages.

We are not discussing existing law, which offers no excuse or precedent for such remarkable measures. Business and the right to contract with employees and customers has always been defined as property, and attacks upon a man's property are illegal. The bill is not only repugnant to all sound principles of law and fundamental rights of property, but an examination of the facts in the most celebrated labor cases in this country shows the alarming practical consequences which would follow the enactment of such a radical and revolutionary measure. Those who are too ready to abandon the legal and constitutional principles of our Government have yet to meet the eloquent arguments to be found in the practical situations presented by these cases.

Debs Case (158 U. S., 564).

In the famous Debs case, which came before the United States Supreme Court on contempt proceedings, ample warning is to be found against the enactment of this law. Early in the summer of 1894 about 100,000 union men belonging to the American Railway Union were ordered out on strike on some 24 railroads centering in Chicago, in order to compel those railroads to abandon the use of all Pullman cars until such time as the Pullman Co. would accede to the demands of its employees. It was not a local strike limited to a city or a State, but a vast national disturbance extending throughout the whole Middle West and far West, and causing lawlessness and disorder wherever the messages and telegrams of the union were received. The avowed and attained object of this combination was the complete paralysis of all traffic in that section of the country. To understand the gravity of the situation, one should read the mass of letters and telegrams that passed between Attorney General Olney and the marshals and district attorneys of the many States and Territories frantically wiring for instructions and funds to enforce the laws against the fast-spreading disorders. Nothing short of the combined force of our Army and judiciary was able te reestablish the supremacy of the law and prevent the famine which already threatened thousands of citizens by reason of the complete suspension of traffic. The main support of this combination which threatened the peace of the Nation at large and which clearly violated the Sherman antitrust law and other statutes relating to interstate commerce was the fact

that the men employed by the railways quit work in concert and induced others to quit work in concert in order to attain their illegal purposes.

One not familiar with this crisis in our national history might feel that the right to quit work and induce others to quit work ought never to be enjoined, but reflection upon this alarming combination enforced by the organized withdrawal of labor, should be sufficient to show the dangers of any law which attempts to deprive the courts of equity of the right to deal with such a situation. When this case came before the United States Supreme Court, that court, speaking through Mr. Justice Brewer, considered the efficacy and leniency of preventive relief rather than resort to criminal or military law, and quoting from the evidence in the case, said:

"It was simply the United States courts that ended the strike. Our men were in a position that never would have been shaken under any circumstances if we had been permitted to remain upon the field among them. Once we were taken from the scene of action and restrained from sending telegrams or issuing orders or answering questions, then the minions of the corporations would be put to work. Our headquarters were temporarily demoralized and abandoned and we could not answer any messages. The men went back to work and the ranks were broken and the strike was broken up, not by the Army and not by any other power, but simply and solely by the taction of the United States courts."

The learned justice then proceeded to say:

"The outcome by the very testimony of the defendants attests the wisdom of the course pursued by the Government, and that it was well not to oppose force simply by force, but to invoke the jurisdiction and judgment of those tribunals to whom by the Constitution and in accordance with the settled conviction of all citizens is committed the determination of questions of right and wrong between individuals, masses and States."

In the face of this conclusive testimony that the injunction is not only the most humane, but the most effective way of handling this most heinous and dangerous of conspiracies, how can any legislature conscientiously destroy it? The growth of organized labor since the Debs conspiracy has devised and made possible new forms of public and private wrongs of this kind, exercising greater power for harm and calling for suppression by the same remedies. To abandon these remedies is to surrender ourselves to the omnipotence of these combinations.

Suppose the railway unions of the country should be enlisted in a movement to unionize the shoe trade by refusing to haul any cars which carried open shop shoes, again we would be confronted with the alarming disturbances of the Debs case and no injunction could issue to restrain the men from quitting work or the officers from ordering them to quit, or from offering the men lavish strike benefits if they did so quit.

THOMAS V. CINCINNATI, ETC., RY. CO. (62 FED., 818).

The distinction between an ordinary strike to benefit the strikers, and a secondary or sympathetic strike indulged in for the purposes of a boycott, was made clear by President Taft when he was a Federal judge. In the case of Thomas *v.* Cincinnati Ry. Co., Judge Taft said:

"It was a boycott. The employees of the railway companies had no grievance against their employers. Handling and hauling Pullman cars did not render their services any more burdensome. They had no complaints against the Pullman cars as cars. They came into no natural relation with Pullman in handling the cars. He paid them no wages. He did not regulate their hours, or in any way determine their services. Simply to injure him in his business, they were incited and encouraged to compel the railway companies to withdraw custom from him by threats of quitting their service and actually quitting their service. This inflicted an injury on the companies that was very great, and it was unlawful, because it was without lawful excuse. All the employees had the right to quit their employment, but they had no right to combine to quit in order thereby to compel their employer to withdraw from a mutually profitable relation with a third person for the purpose of injuring that third person, when the relation thus sought to be broken had no effect whatever on the character or reward of their service. It is the motive for quitting, and the end sought thereby, that makes the injury inflicted unlawful, and, the combination by which it is effected, an unlawful conspiracy. The distinction between an ordinary lawful and peaceable strike, entered upon to obtain concessions in the terms of the strikers' employment, and a boycott, is not a fanciful one, or one which needs the power of fine distinction to determine which is which. Every laboring man recognizes the one or the other as quickly as the lawyer or the judge. The combination under discussion was a boycott."

Another instance of a strike of railway employees for the purpose of boycotting the cars of another company with which they had no relations is the case of Toledo & Ann Harbor R. R. *v.* The Penn Co. (54 Fed., 730).

CALLAN v. WILSON (127 U. S., 540).

In the famous case of Callan *v.* Wilson the Supreme Court was called upon to deal with a labor conspiracy growing out of the operations of the Knights of Labor, where defendants sought to prevent certain persons from pursuing their trade and calling as musicians. The means employed, as charged in the information, were as follows:

"To refuse to work as musicians or in any other capacity with or for the persons first above named or with or for any person, firm, or corporation working with or employing them; to request and procure all other members of said organizations and all other workmen and tradesmen not to work as musicians or in any capacity with or for them, or either of them, or for any person, firm, or corporation that employed or worked with them, or either of them; and to warn and threaten every person, firm, or corporation that employed or proposed to employ said persons, or either of them, that if they did not forthwith cease to so employ them and refuse to employ them, and each of them, such person, firm, or corporation so warned and threatened would be deprived of any custom or patronage, as well from the persons so combining and conspiring as from all other members of said organization in and out of the District."

The defendants were found guilty in the police court of the District of Columbia and were duly sentenced. The case subsequently came before the United States Supreme Court upon a writ of habeas corpus, the defendants claiming that the offense for which they were charged was not a petty offense which could be tried by a police court without a jury.

Concerning this combination, Mr. Justice Harlan, delivering the unanimous opinion of the Supreme Court, said:

"A conspiracy such as is charged against him and his codefendants is by no means a petty or trivial offense. * * * It is an offense of a grave character, affecting the public at large, and we are unable to hold that a person charged with having committed it in this District is not entitled to a jury when put upon his trial."

But this "offense of a grave character" consisted of organized efforts to withdraw patronage and withdraw labor from anyone who employed the persecuted musician. It constituted a boycott against anyone who gave bread and butter or honest employment to a hounded man, and as completely deprived that man of liberty and property as if his house had been burned and his body incarcerated. How can any statesman who understands this issue deliberately deprive a court of equity of its power to arrest such cruel aggression? Are we to abandon our constitutional theory of individual rights by destroying the only remedies which protect those rights from utter destruction on the part of large and powerful combinations?

DANBURY HATTERS' CASE (208 U. S., 274).

In the Danbury Hatters' case (Loewe *v.* Lawlor) the Supreme Court held that an interstate boycott conducted by and through the American Federation of Labor, with its 2,000,000 members, constituted a conspiracy contrary to the terms of the Sherman antitrust law. But an examination of this case will show that the principal means employed, while operating in a way to outrage the sense of decency and justice of any fair man, were largely the means which the proposed law seeks to remove from the domain of equitable jurisprudence.

The Loewe partnership was a small hat-manufacturing concern which had for many years maintained relations of mutual satisfaction, trust, and confidence with its employees and had long held a feeling of personal interest and responsibility toward those employees, which feeling was reciprocated by them. Within about one week after the hatters' union had unionized the concern of H. H. Roeloffs & Co., of Philadelphia, by means of a destructive interstate boycott lasting nearly a year, the principal officers of the United Hatters called upon the Loewe concern, stating that "its day had arrived." When Mr. Loewe had told them that he did not care to unionize the concern, the union officers replied that they would then use force, and they later reminded Mr. Loewe that it had cost them $40,000 to unionize the Roeloffs concern, which was a wealthier concern, and it would accordingly be impossible for him to withstand their attack. They also warned Mr. Loewe not to trust the employees toward whom he expressed such feelings of loyalty and confidence, and subsequently, after ordering a strike of all the employees, told the employees that Mr. Loewe would forsake them and they would be deprived of their living if they did not do as the union told them to do.

Following the strike which destroyed the concern's business organization in the midst of the busiest season of the year, an interstate boycott was conducted in trade centers throughout the length and breadth of the United States by means of the various facilities and branches of the American Federation of Labor. This federation, which employs over a thousand agents or organizers, has a membership of nearly

2,000,000 persons, and is divided and subdivided into some 30,000 local unions, about 30 State federations composed of all the unions in a particular State, and over 500 city councils composed of all the unions in a particular city. It is directed from the National Capital, and so adjusted and subdivided that the entire force of organized labor in any State and in any city can be utilized to destroy the business of any dealer who continues to patronize the boycotted manufacturer. This was the machine that made its onslaught on the Loewe concern and all who persisted in remaining its customers. The organizers themselves boasted that $100,000 had been appropriated to accomplish their iniquitous ends. The agents of the United Hatters were official organizers of the federation and traveled about the country soliciting wholesale customers of the Loewe concern not to do business with it and calling upon the State federations and city councils to destroy the business of those dealers who refused. In one instance, thousands of local unions were enlisted in a general boycott to destroy the business of one wholesaler who persisted in purchasing the Loewe hats, and numerous retailers were boycotted by State federations, city councils, and hundreds of local unions because they purchased hats from this wholesaler who still dealt with the Loewe concern. Men familiar with the Loewe system of making shipments were employed as spies to furnish prompt and exact information as to the destination of all consignments, and this information so illicitly secured was at once forwarded by post or telegraph to the city councils, State federations, or traveling organizers in that locality. Woe unto the consignee if he was one of those dealers who had previously promised not to deal with the Loewe concern in order to avoid the destruction of his business. Under such circumstances, the delegates gave his business or trade what they termed "a chunk of punishment."

With these spies on the trail of all customers and powerful organized attacks upon these customers in all the trade centers ruin was as certain as death. In one year the profit-and-loss sheet of the Loewe concern, which formerly showed a profit of $27,000, was so affected by this combination that it showed a loss of $17,000. All this loss was inflicted because of the concern's refusal to force nonunion employees to join the union, and the principal means employed were inducing the men not to work for the Loewe concern and inducing organized labor and the trade of the country not to deal with any wholesalers or retailers as long as they dealt with the Loewe concern or any dealer which purchased of it. Concerning this combination, which it is now proposed to license by the enactment of the proposed bill, the Supreme Court of the United States said:

"The combination charged falls within the class of restraint of trade aimed at compelling third parties and strangers involuntarily not to engage in the course of trade except on conditions that the combination imposes, and there is no doubt that (to quote from the well-known work of Chief Justice Erle on Trade Unions) 'at common law every person has individually, and the public also has collectively, a right to require that the course of trade should be kept free from unreasonable obstruction.'"

After the suit was started under the Sherman antitrust law the boycott continued with unabated fierceness on the Pacific coast, and it was necessary for Mr. Loewe to proceed to California in order to there secure an injunction, which was ultimately issued in the case of Loewe *v.* California State Federation of Labor (139 Fed., 71). In that case the court said:

"The defendants contend that the allegations of the bill of complaint and the supporting affidavits are insufficient to justify the court in issuing a temporary injunction; that it does not appear that any force, threat, or intimidation has been used by the defendants to enforce the alleged boycott against the product of complainants' factory; that all that has been done by the labor organizations named in the bill has been to urge upon the friends of labor to use their patronage for the benefit of labor; that they had the constitutional right to do this, either by the publication of their views upon the subject or by communicating them orally to their friends and to the public generally. But can it be truthfully said that this is all that has been done by the defendants and those who have acted with them in enforcing the boycott described in the bill of complaint? Are they not doing something more than speak, write, and publish their sentiments? Are they not using the power of their combined numbers, acting in concert, to drive the complainants out of business and destroy their property unless they are willing to surrender the control and management of their business to a labor organization? Are they not acting in combination, not merely for the ultimate purpose of advancing their own interests as workmen, but for the direct and immediate purpose of injuring the complainants in their business and property? If these questions must be answered in the affirmative—and upon the facts before the court they can not be answered otherwise—then what follows? The weight of authority is that these acts are unlawful, and may be restrained by injunction tion."

To recount the facts concerning the boycott of the Bucks Stove & Range Co. by the American Federation of Labor would be to a large extent a repetition of the Loewe story, with its unprovoked assault, and ruinous results carried on by an organization of such power, omnipresence, and vigilance that escape or defense was impossible unless the courts exercised their usual prerogatives and performed their usual duties. Neither criminal prosecution or suits for damages can protect the victim of such assaults. The criminal prosecution is no remedy to the injured party and damage suits are inadequate, because the defendants are insolvent, the damages unascertainable and irreparable, and the attack continuous.

PAINE LUMBER CO. AND OTHERS.

In the case of the Paine Lumber Co. and others, now pending in the United States District Court for the Southern District of New York, we find another type of combination which is primarily sustained by acts which; under the proposed bill, could not be enjoined. The carpenters' union, having a membership of 200,000 and being the largest union in the United States, has undertaken to unionize all woodworking concerns throughout the United States by calling strikes on all buildings where materials are used which come from an open shop and fining all members who fail to strike. Large sums of money are spent in the employment of persons who trace out the origin of all wood materials used on buildings for the purpose of striking them and indefinitely suspending the completion of the building operation. The carpenters' union has also an arrangement with the Building Trades Council of New York City covering more than 30 different building trades' unions, whereby all of the trades on any building will strike if nonunion carpenters are secured to install the open-shop woodwork which the union carpenters refuse to install. Through the persistent calling of strikes by this union most of the large builders in New York City on the island of Manhattan have been coerced to enter into a written agreement not to purchase any trim or wood materials which comes from any shop that does not employ union labor exclusively. Certain manufacturing woodworkers who operate so-called union shops pursuant to the rules of the carpenters' union have made agreements with the carpenters' union to the effect that they will employ only union carpenters, and the union in return will eliminate nonunion competition by refusing to work upon the open-shop materials and calling strikes on all buildings where they are used. These union manufacturers have discovered what many other manufacturers are discovering—that the most effective form of combination and monopoly is to use the boycotting and striking machinery of the unions to destroy and ruin the business of their competitors. They, too, have their own spies and watchmen to ascertain where the nonunion or open-shop material is being sent in order to furnish the union with this information and insist upon the institution of strikes pursuant to their agreements and arrangement. By this combination of manufacturers, builders, and the unions, all brought about by the mere act of quitting work and inducing others to quit work upon nonunion material, a complete monopoly has been established on the island of Manhattan which prevents any nonunion or open-shop trim being there used and forces upon that community, to the detriment of all other persons, whether workingmen or not, the union-made material at a price 25 to 50 per cent higher than the material produced by the open-shop concerns in the country.

In this instance the mere act of quitting work and inducing others to quit work is the means of foisting a dangerous and costly monopoly upon the people and strikes are called for the purpose of stifling trade and commerce in violation of the antitrust laws. The customers of competing manufacturers are compelled by threats of labor troubles and the exigencies of their position to confine their purchases exclusively to the combination of manufacturers in whose behalf the carpenters' union is striking. Back of this combination is the union's purpose of driving the nonunion man out of the trade by refusing to work on any building where he is employed or where materials produced by anyone who operates an open shop are being used. Concerning this combination Judge Ward, rendering a decision in a similar case (180 Fed., 896) against the carpenters' union, said:

"The right of workingmen to unite for their own protection is undoubted, and so is their right to strike peaceably because of grievances; but their right to combine for the purpose of calling out the workmen of other employers who have no grievances or to threaten owners, builders, and architects that their contracts will be held up if they or any of their subcontractors use the complainant's trim is quite another affair. To take the converse of the proposition: Will the defendants admit that employers may combine to prevent any employer from using union labor? May the employers agree not to sell to or contract with anyone who deals with an employer who uses union labor?

"Either of these propositions is destructive of the right of freemen to labor for or to employ the labor of anyone the laborer or the employer wishes. See the language of Justice Harlan in Adair *v.* United States (208 U. S., 161, 174; 28 Sup. Ct., 277; 52 L. ed., 436). If the struggle is persisted in between labor and capital to establish a contrary view, ultimately either the workmen or the employers will be reduced to a condition of involuntary servitude."

NEWTON V. ERICKSON (126 N. Y. SUPP., 949).

The boycott against open-shop woodwork by striking against all builders who purchase it was practiced against the concern of Albro J. Newton, in Brooklyn. That company refused to compel its employees to join the union, and the carpenters' union accordingly instituted strikes against every building operation in the borough of Brooklyn where the materials of that concern were being used. These strikes all took place on or about the same day and were aimed at the use of the Newton material, which had been contracted for months prior thereto and which in practically every instance was largely installed in the buildings. Every carpenter on every building operation quit work on the orders of the union except one, and this man, who was then acting as a superintendent and felt that he could not abandon his post because of the general responsibilities imposed on him, was fined $25 and subsequently expelled from the union. When the strikes were instituted, the union called upon the builders' association to sign an agreement in behalf of all its members to the effect that no nonunion material would thereafter be used as a consideration of calling off the strikes and allowing the men to finish these nonunion jobs. At this critical juncture the rights of the Newton company were saved by an injunction. In this case, as in most of the cases involving this boycott by the carpenters' union, the journeymen carpenters themselves did not object to the nonunion material, but reluctantly quit work on orders of the delegate because of the fear of fine and expulsion from their organization. These carpenters welcome the injunction of the court, which prevents their being interfered with by orders of the delegates for reasons which do not concern the conditions of their own employment. Judge Blackmar, of the New York Supreme Court, rendered an opinion in this case, in which he said:

"Every wrongful deed could be resolved into component acts which would be lawful if directed to an innocent end. The moral and legal character of acts depends on the end sought and the accompanying motive and intent * * * The defendants' counsel claims that the strikes were in and of themselves lawful. To that I assent. He claims that the strikers had the right to send a notice of their intention to strike and give the reasons therefor. To that also I assent. But these acts alone do not constitute plaintiff's cause of action. His cause of action is the combination to injure his business. This case is nearly akin to the boycott cases. It is an attempt on the part of the union to compel builders and contractors to boycott the plaintiff * * *. The plaintiff has a right to carry on business as absolute as the right of the workmen to control their time and labor. This right is a property right. The relations of a dealer to his customers and to the trade generally is called good will and is property which the law is bound to protect. There is no branch of the law better settled than the jurisdiction of equity to protect the good will of business against trespass and invasion by its writ of injunction. This property is of a peculiar and intangible nature, but it is the subject of bargain and sale; it may be capitalized as the basis of a corporate stock issue; and it is often the most important asset possessed by a manufacturer or merchant. To bring an obstinate manufacturer to terms, an attack on his good will would be fully as effective as to tear down his factory or to smash his machinery. It seems to me that a combination to attack the plaintiff's good will is illegal, and the illegality is not changed by the innocence of the means used."

There have been about a dozen cases against the carpenters' union where injunctions have been issued to restrain combinations of this kind, and in each instance the community at large has benefited by the injunction and the rights of all parties have been treated justly. In many cities the cooperation between this union and the other building-trades' unions makes it practically impossible to erect a building in the face of their combined opposition, so that the complete exclusion of open-shop materials and an iron-clad monopoly in favor of the union shops is assured unless the courts intervene. The island of Manhattan, New York, and San Francisco furnish ample proof of this assertion.

BUILDING-TRADES DEPARTMENT AND METAL-TRADES DEPARTMENT OF THE AMERICAN FEDERATION OF LABOR.

The present organization of the American Federation of Labor shows how this combination not to handle or work upon materials of open shops may be carried to a still further extent and may be the means of fastening upon the people a still more

serious monopoly with increasing cost to the public. The various national unions engaged in the building business, including some 20 in all, have formed themselves into a department chartered by the American Federation of Labor and known as the building-trades department of the American Federation of Labor. This department has a membership of about 400,000 and is composed of local building-trade councils in different parts of the country, which councils are made up of the local unions of the building-trades unions in the particular locality where the council is situated and are in a position to act concertedly and speedily in all matters which involve their interests and at any time to call strikes upon buildings where any nonunion or open-shop materials are being utilized.

The various metal trades of the American Federation of Labor have also organized what is known as the metal-trades department of the American Federation of Labor, composed of about 12 national unions engaged in metal trades and also having local metal-trades councils in various parts of the country where building-trade operations are conducted. This department has a membership of about 250,000 and has passed resolutions not to work on or in connection with any building where nonunion materials are being utilized. It has also made an agreement with the building-trades department whereby the building-trades department will, on the demand of the metal-trades department, cooperate with the metal-trades department in calling strikes on any buildings where metal materials are being used from any nonunion concern.

The operations of this stupendous combination of building trades and metal trades have been recently centred against a manufacturer of ice machinery who gave the unions permission to organize his mill while refusing to force his employees to become union men. The metal trades department being unsuccessful in persuading the men to join the union, has undertaken to marshal the full power of that department and the building trades department against this manufacturer and his nonunion employees by keeping a careful watch over all shipments made by the concern, and issuing strike orders to the trade-union councils in the locality where the goods are to be used. In this way strikes of all trades are promptly called on all buildings where the ice machinery of this concern is being installed, and the boycott is being prosecuted from the Pacific to the Atlantic coast and from the Gulf to Canada. How unjust and destructive of trade is a strike instituted in Seattle because certain materials are being used from some concern in an Eastern State which refuses to discriminate against nonunion labor. One is appalled at the ramifications and extent of this tremendous combination and the great power it can exercise by interrupting and disturbing building operations. No sale or general contract escapes its detection, and the certainty of costly strikes against all of the manufacturer's customers becomes a deadly blight against its good will. It is notable, however, that the principal means adopted to enforce this destructive work is the mere quitting of work and inducing others to quit. If the proposed bill is enacted what preventive relief will remain to protect the manufacturer and nonunion man from the irresistible force of this combination?

SYMPATHETIC STRIKES.

There is another variety of sympathetic strikes which at times threatens the peace and order of our foremost cities. This is a strike which disrupts the relations of neutral employers and employees who occupy a position of mutual satisfaction and contentment, for the purpose of creating a public disturbance and paralyzing mercantile activities until such time as the public, from sheer terror, will compel some other group of employers and employees to settle their disputes.

Thus, when the express drivers of New York City struck, the union daily threatened to order a strike of all teamsters employed by the merchants of that great city until such time as the express companies would yield to the demands of its employees. When the employees of the traction company of Philadelphia struck, a subsequent order was made by the Central Labor Union of Philadelphia directing a strike in every industry in Philadelphia until by a show of great power and the paralysis of all business the weak-hearted would demand a surrender to the aggressors who were injuring their business. This strike against local industries was largely unsuccessful, and the union then threatened to follow it by a strike called by the State Federation of Labor against all industries throughout the entire State. While the State-wide strike never took place, full authority to call it was placed in the leaders' hands and it was daily threatened. In this way the public is coerced in self-defense to side with the aggressor in a dispute with which it has no direct connection, and in the same way, peace and order and the stability of government itself are severely shaken. In war the rights of neutrals and noncombatants are respected, but in industrial strife such sympathetic strikes as took place in Philadelphia disrupt the peaceful relations of thousands of law-abiding and contented citizens by ordering unwilling and satisfied employees out

on strike for the purpose of coercing public opinion. When one reflects upon the enormous loss, bitterness, and disturbance which follows every strike, one can not hesitate in saying that the infliction of such a strike upon employers and employees who have no quarrel with each other is a public wrong of great concern which should be stopped by enjoining the agitators from such interference. It ought to be possible for any noncombatant employer to enjoin the officers of the union from ordering his men out on strike for any such unjustifiable purpose, and none would welcome such injunction more than the rank and file of the unions.

The proposed measure would deprive the court of equity of the only remedy by which the rights of these noncombatant employers and employees and the public can be protected, and would lead to more alarming disturbances of this kind than we have hitherto experienced.

ERDMAN v. MITCHELL (207 PENN., 79).

In the case of Erdman *v.* Mitchell, decided by the Supreme Court of the State of Pennsylvania, may be found an example of oppression of a nonunion man, or member of a rival union, by the repeated institution of strikes upon all buildings where he was employed. The plaintiff refused to join the union, and the defendants undertook to compel him so to do or drive him from the trade. It was like the boast of the president of the teamsters' union that "every man must join the union or go to the hospital," only in this case he was to be sent to the poorhouse. This entire outrage was based upon a combination of men quitting work and inducing others to quit work wherever the plaintiff was employed, and completely destroyed the plaintiff's right to earn a living at his trade. Concerning this combination which, under the proposed bill, could not be enjoined, the court said:

"The right to the free use of his hands is the workman's property, as much as the rich man's right to the undisturbed income from his factory, houses, and lands. By his work he earns present subsistence for himself and family. His savings may result in accumulations which will make him as rich in houses and lands as his employer. This right of acquiring property is an inherent, indefeasible right of the workman. To exercise it, he must have the unrestricted privilege of working for such employer as he chooses, at such wages as he chooses to accept. This is one of the rights guaranteed him by our declaration of rights. It is a right of which the legislature can not deprive him, one which the law of no trades-union can take from him, and one which it is the bounden duty of the courts to protect. The one most concerned in jealously maintaining this freedom is the workman himself. * * *

"Trades-unions may cease to work, for reasons satisfactory to their members; but if they combine to prevent others from obtaining work by threats of a strike, or combine to prevent an employer from employing others by threats of a strike, they combine to accomplish an unlawful purpose—a purpose as unlawful now as it ever was, though not punishable by indictment. Such combination is a despotic and tyrannical violation of the indefeasible right of labor to acquire property, which courts are bound to restrain. It is utterly subversive of the letter and spirit of the declaration of rights. If such combination be in accord with the law of the trades union, then that law and the organic law of the people of a free commonwealth can not stand together. One or the other must go down."

EMPLOYING PRINTERS' CLUB v. DR. BLOSSER CO. (50 S. E. Rep., 353, Ga.).

In the case of the Employing Printers' Club *v.* Dr. Blosser Co., the Supreme Court of Georgia discusses a combination of members of the printers' club to stifle competition, maintain prices, and destroy competitive bids for city work. After a bid was made by one member, all other members were bound to name a bid of an equal or higher price. Each member was to have his turn in doing the work and was to add 10 per cent to the usual price. The plaintiff, objecting to this combination, tried to do work independently and was fined a large sum of money for taking a contract in violation of the rules of the association. He subsequently resigned from the association and was then told that unless he paid his fine and came back to the club, all union labor which controlled the printing trades in Atlanta would be called out of his shop. A timely injunction saved the day.

This case is a remarkable example of the way in which employers' combinations utilize the power of the unions to destroy the business of all competitors who do not submit to and observe the rules of their illegal combination. The principal power behind this combination of printers which had for its purpose the exaction of extortionate fees from the municipality and all other customers, was based upon the fact that the unions of a community would at any time, on the instigation of the employers'

combination, order strikes against any printer who did not conform to the iniquitous and the illegal rule of the employers' combination. Under the law passed by Congress, no effective injunction could be issued to restrain this undoubted and flagrant wrong, and while the combination would be still illegal, the principal means of enforcing it could not be stopped.

PURINGTON v. HINCHLIFF (76 N. E. REP., 47, ILL.).

In the case of Purington *v.* Hinchliff, decided by the Supreme Court of Illinois, the plaintiff was a manufacturer of brick in Cook County, and was attacked by a combination known as the Brick Manufacturers' Association. This combination produced 95 per cent of the brick in said county and had an arrangement with the Bricklayers' Union whereby the hod carriers and bricklayers would not handle the brick made by any manufacturer who was not a member of said association. Through the operations of this combination, the plaintiff's business was ruined and the monopoly of the defendants established. This case is another example of the way in which manufacturers who desire to throttle competition and maintain monopoly may destroy their competitors through inducing the members of the powerful labor unions not to handle or work upon materials produced by their competitors. Under the proposed law, this weapon of monopoly which is becoming more common and more effective, could no longer be reached by our equity courts, which are the principal resort against monopoly. * * *

These cases cited are but illustrations of the multiplicity of dangerous combinations, menacing rights of liberty and property throughout the United States. The associations which conduct them have never been in danger of dissolution or weakening on account of the use of injunctions, but the country has been and still is in grave danger from the spirit of lawlessness and irresponsibility which dominates them. With such unprecedented organizations, having as many tentacles as the octopus, it is a poor time to weaken any branch of our Government, when, on the contrary, there never was a greater need for governmental interference. Interstate boycotts which marshal an organization of 2,000,000 men against one small manufacturer, strikes which disrupt all building operations throughout the United States where open-shop materials are being used, organized espionage to enforce these boycotts, the complete disruption of business between noncombatant employees and employees in our cities, and the use of strikes and boycotts against competitors in order to stifle competition and enforce monopoly—these are trade offenses too numerous and too serious to permit them to go unrestrained.

[H. R. 23635, Sixty-second Congress, second session.]

A BILL To amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary, approved March third, nineteen hundred and eleven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 263 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby, amended so as to read as follows, and that said act be further amended by inserting after section 266 thereof three new sections, to be numbered, respectively, 266a, 266b, 266c, reading as follows:

"SEC. 263. That no injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an opportunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined a reasonable time in advance of such application. But if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury is likely to ensue to the complainant, and that the giving of notice of the application or the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

"SEC. 266a. That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

"SEC. 266b. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

"SEC. 266c. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be written and sworn to by the applicant or by his agent or attorney.

"*And such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.*"

Mr. DAVENPORT. I think I have said all I care to say upon the subject, except that I have here collected the activities of the American Federation of Labor during a period of five years in declaring boycotts and prosecuting those boycotts, enforcing them, and the instrumentalities they employ. They are collected from the American Federationist.

A concern is marked for destruction. It has incurred in some way the ill-will of the organization. A regular proceeding is had by which that concern is put upon the unfair list of the American Federation of Labor. This has stopped since we got the injunction in the Bucks Stove & Range case, so far as publication is concerned. But if this law should be passed, and it was of any validity, those activities would immediately be resumed.

This is a specimen:

NOTICE.

WASHINGTON, D. C., *September 25, 1907.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair.

Then follows a list of concerns and then the following:

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

They had an army of men, 1,200 of them, called organizers, and their business was to report what was being done with these boy-

cotts, in order to report to Mr. Gompers. Here is an extract from the American Federationist for the month of February, 1902:

FLORIDA.

JACKSONVILLE.

Organizer reports: "All American Federation of Labor boycotts are observed."

ILLINOIS.

BLUE ISLAND. Organizer reports: "All boycotts are being pushed."

Another organizer reports: "All American Federation of Labor boycotts are observed."

DECATUR.

Organizer reports: "All American Federation of Labor boycotts are being pushed"—

And so on.

In this list there are probably a dozen pages just like that, covering the entire country, containing reports of organizers that they are pushing these boycotts. The instructions of the convention were that they must be pushed.

Then I have selected here a list of all the concerns that were formally put upon the boycott list of the American Federation of Labor to be boycotted.

Senator ROOT. That is the unfair list?

Mr. DAVENPORT. The unfair list. They are first declared to be unfair formally; then they are put upon this list. There are several pages of this list. It took a good deal of labor to collect this. It is done. It would be very useful. It is a sociological curiosity anyway. I would ask that these might be inserted in the record as a part of my remarks, for preservation.

Senator ROOT. You may do that, without objection.

Mr. DAVENPORT. The information is as follows:

[Extract from American Federationist, October number, 1907, p. 814.]

NOTICE.

WASHINGTON, D. C., *September 25, 1907.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Hickman-Ebbert Co., Owensboro, Ky.
Owensboro Wagon Co., Owensboro, Ky.
F. A. Ames Co., Owensboro, Ky.
Saks & Co., Washington, D. C., New York City, and Indianapolis, Ind.
Lambertville Rubber Co., Lambertville, N. J.
Jones Lamb Co., Baltimore, Md.
Rosenthal Co., New York City, manufacturers of the Bill Dugan, King Alfred, Peiper Heidseick, Joe Walcott, Big Bear, Diamond D, El Tillado, Jack Dare, Little Alfred, Club House, Our Bob, 1105 Royal Arcanum cigars.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, July number, 1907, p. 499.]

NOTICE.

WASHINGTON, D. C., *June 25, 1907.*

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Indurated Fibre Ware Co., Lockport, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, May number, 1907, p. 356.]

SPECIAL NOTICE.

WASHINGTON, D. C., *April 25, 1907.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Home Stove Works, Indianapolis, Ind.
A. Van Buren Co., New York City.
New York Bill Posting Co., New York City.
J. J. Keeley, New York City.
F. W. Rauskolb, Boston, Mass.
B. Kuppenheimer & Co., Chicago, Ill.
Buck's Stove & Range Co., St. Louis, Mo.
Valley City Milling Co., Grand Rapids, Mich.

Secretaries are requested to read this notice at union meetings, and labor and reform papers please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1907, p. 49.]

NOTICE.

WASHINGTON, D. C., *December 25, 1906.*

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Henry H. Roelofs & Co.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, November number, 1906, p. 910.]

SPECIAL NOTICE.

WASHINGTON, D. C., *October 25, 1906.*

To all affiliated unions:

At the request of the unions interested, and after due consideration and attempt at settlement, the following concerns have been declared unfair:

Carbondale Machine Co., Carbondale, Pa.
United States Heater Co., Detroit, Mich.
Standard Sewing Machine Co., Cleveland, Ohio.
Manitowoc Dry Dock Co., Manitowoc, Wis.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, September number, 1906, p. 711.]

SPECIAL NOTICE.

WASHINGTON, D. C., *August 25, 1906.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Lindsay Wire Weaving Co., Collinwood, Ohio.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, August number, 1906, p. 564.]

SPECIAL NOTICE.

WASHINGTON, D. C., *July 25, 1906.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Ideal Manufacturing Co., Detroit, Mich.
Reddington Hotel, Wilkes-Barre, Pa.
Hatton Brick Co., Kingston, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, May number, 1906, p. 338.]

NOTICE.

WASHINGTON, D. C., *April 25, 1906.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Finch Distilling Co., Pittsburgh, Pa.
J. N. Mockett, Toledo, Ohio.
New York Knife Co., Walden, N. Y.
Jackson, Portland Peninsular Cement Co., Cement City, Mich.
Kern Barber Supply Co., St. Louis, Mo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, March number, 1906, p. 179.]

SPECIAL NOTICE.

WASHINGTON, D. C., *February 25, 1906*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

American Iron & Steel Co. Works, Lebanon and Reading, Pa.
Corning Brick, Tile, Terra Cotta Co., Corning, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, February number, 1906, p. 110.]

NOTICE.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Far West Lumber Co., Tacoma, Wash.
Thomas E. Gleeson, East Newark, N. J.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1906, p. 45.]

NOTICE.

WASHINGTON, D. C., *December 25, 1905.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

American Hoist & Derrick Co., St. Paul, Minn.
Philadelphia Inquirer.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, November number, 1905, p. 868.]

NOTICE.

WASHINGTON, D. C., *October 25, 1905.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

St. Paul & Tacoma Lumber Co., Tacoma, Wash.
Grays Harbor Commercial Co., Cosmopolis, Wash.
Peckham Manufacturing Co., Kingston, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, August number, 1905, p. 542.]

NOTICE.

WASHINGTON, D. C., *July 25, 1905.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Potter Wall Paper Co., Hoboken, N. J.
Missouri, Kansas & Texas Railway Co.
Bryan & Co., Cleveland, Ohio.
Lehmaier-Swartz & Co., New York City.
Derby Desk Co., Boston, Mass.
Merkle-Wyley Broom Co., Paris, Ill.
C. W. Post, Manufacturer of Grape Nuts and Postum Cereal, Battle Creek, Mich.
J. H. Connie Glove Co., Des Moines, Iowa.
California Glove Co., Napa, Cal.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, May number, 1905, p. 313.]

NOTICE.

WASHINGTON, D. C., *April 25, 1905.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Pittsburgh Expanded Metal Co., Pittsburgh, Pa.
Wrought Iron Range Co., St. Louis, Mo.
Lerch Bros., Baltimore, Md.
Utica Hydraulic Cement Co. and Utica Cement Manufacturing Co., Utica, Ill.
H. B. Wiggins Sons' Co., Bloomfield, N. J.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, April number, 1905, p. 223.]

NOTICE.

WASHINGTON, D. C., *March 25, 1905.*

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

J. E. Tilt Shoe Co., Chicago, Ill.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, March number, 1905, p. 165.]

NOTICE.

WASHINGTON, D. C., *February 25, 1905.*

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Merritt & Co., Philadelphia, Pa.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1905, p. 31.]

SPECIAL NOTICE.

WASHINGTON, D. C., *December 25, 1904.*

To all affiliated local unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

The National Elevator & Machine Co., Honedale, Pa.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, November number, 1904, p. 1005.]

NOTICE.

WASHINGTON, D. C., *October 25, 1904.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Boorum & Pease Co., Brooklyn, N. Y.

Williams Basket Manufacturing Co., Northampton, Mass.

Houston Electric Co., Houston, Tex.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, September number, 1904, p. 794.]

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET NW.,
Washington, D. C., August 25, 1904.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The American Hardware Co. (P. & F. Corbin Co. and the Russell & Irwin Co.), New Britain, Conn.

Grand Rapids Furniture Manufacturers' Association, Grand Rapids, Mich.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, August number, 1904, p. 673.]

NOTE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., July 25, 1904.

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Wm. Bailey & Sons, Cleveland, Ohio.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, June number, 1904, p. 531.]

NOTICE.

WASHINGTON, D. C., *May 25, 1904.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

J. B. Stetson, Philadelphia, Pa.
E. M. Knox Co., Brooklyn, N. Y.
Chicago Corset Co., Aurora, Ill.
Strawbridge & Clothier, Philadelphia, Pa.
Blauner Bros., New York City.
Wm. Demuth & Co., New York.
Henry Disston & Co., Philadelphia, Pa.
Union Lumber Co., Fort Bragg, Cal.
Kelley Milling Co., Kansas City, Mo.
J. N. Roberts & Co., Metropolis, Ill.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, March number, 1904, p. 244.]

NOTICE.

WASHINGTON, D. C., *February 25, 1904.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Hohmann & Maurer Mfg. Co., Rochester, N. Y.
Merrimac Manufacturing Co., Lowell, Mass. (Printed goods.)

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, February number, 1904, page 161.]

NOTICE.

WASHINGTON, D. C., *January 25, 1904.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The David Maydole Hammer Co., Norwich, N. Y.
Harney Bros., Lynn, Mass.
Clothiers' Exchange, Rochester, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1904, p. 69.]

NOTICE.

WASHINGTON, D. C., *December 25, 1903.*

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Williams Cooperage Co. and the Palmer Manufacturing Co., Poplar Bluff, Mo.
Atlas Tack Co., Fairhaven, Mass.
Erie City Iron Works, Erie, Pa.
Atchison, Topeka & Santa Fe Railway.
Remington-Martin Paper Co., Norfolk, N. Y.
Washburn-Crosby Flour Milling Co., Minneapolis, Minn.
Harbison & Walker Refractory Co., Pittsburgh, Pa.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from the American Federationist, December number, 1903, p. 1318.]

NOTICE.

WASHINGTON, D. C., *November 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Art Metal Construction Co., Jamestown, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, November number, 1903, p. 1197.]

WASHINGTON, D. C., *October 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

People's Street Railway Co., Dayton, Ohio.
James R. Kaiser, manufacturer of neckwear, New York City.
Northwestern Cooperage & Lumber Co. (otherwise known as the Buckeye Stave Co.) of Ohio, Michigan, and Wisconsin.
St. Johns Table Co., St. Johns, Mich.
Elgin Butter Tub Co., Elgin, Ill.
Ballard & Ballard Milling Co., Louisville, Ky.
Kokomo Rubber Co., Kokomo, Ind.
Wick China Co., Kittaning, Pa.
B. F. Goodrich Rubber Co., Akron, Ohio.
Diamond Rubber Co., Akron, Ohio.
Oneita Knitting Mills, Utica, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, October number, 1903, p. 1077.]

NOTICE.

WASHINGTON, D. C., *September 25, 1903.*

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

America Brewing Co., New Orleans, La.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, September number 1903, p. 977.]

NOTICE.

WASHINGTON, D. C., *August 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The John Russell Cutlery Co., Turners Falls, Mass.
D. M. Perry, Indianapolis, Ind.
Davenport Pearl Button Co., Davenport, Iowa.
Krementz & Co., Newark, N. J.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, August number, 1903, p. 692.]

NOTICE.

WASHINGTON, D. C., *July 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Carey Bros., Philadelphia, Pa.
Becker, Smith & Page, Philadelphia, Pa.
William Janeway & Co., New Brunswick, N. J.
F. R. Patch Manufacturing Co., Rutland, Vt.
Lincoln Iron Works, Rutland, Vt.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, July number, 1903, p. 599.]

NOTICE.

WASHINGTON, D. C., *June 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Payne Engine Co., Elmira, N. Y.
S. R. Bailey & Co., Amesbury, Mass.
Hassett & Hodge, Amesbury, Mass.
Carr Presscott & Co., Amesbury, Mass.

Secretaries are requested to read this notice at union meetings, labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, June number, 1903, p. 510.]

NOTICE.

WASHINGTON, D. C., *May 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Seagrave Manufacturing Co., of Columbus, Ohio.
J. Capps & Sons, Ltd., Jacksonville, Ill.
Columbus Buggy & Harness Co., Columbus, Ohio.
Western Union Telegraph Co.
N. Drucker & Co., Cincinnati, Ohio.
Cheney-Bigelow Wire Works, Springfield, Mass.
Russell Manufacturing Co., Middletown, Conn.
L. E. Waterman & Co., New York City.
George L. Meakir, Evansville, Ind.
M. Goellers Sons, Circleville, Ohio.
Krell Piano Co., Cincinnati, Ohio.
New Orleans Brewing Co., New Orleans, La.
Security Brewing Co., New Orleans, La.
Standard Brewing Co., New Orleans, La.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, March number, 1903, p. 208.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET NW.,
Washington, D. C., February 24, 1903.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The C. W. Stine Pottery Co., White Cottage, Ohio.
E. N. Rowell Co., Batavia, N. Y.
O. Weisner Piano Co., Brooklyn, N. Y.
Underwood Typewriter Co., Hartford, Conn.
Gulf Bag Co., New Orleans, La.
Branch of Bemis Bros., of St. Louis, Mo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, February number, 1903, p. 121.]

NOTICE.

WASHINGTON, D. C., *January 25, 1903.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Skinner Silk Co., Holyoke, Mass.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1903, p. 43.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET NW.,
Washington, D. C., December 24, 1902.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Wagner Leather Co., of Stockton, Cal.
Kullman, Salz & Co., Benicia, Cal.
S. H. Frank & Co., Redwood, Cal.
A. B. Patrick & Co., San Francisco, Cal.
The Santa Rosa Tanning Co., Santa Rosa, Cal.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, December number, 1902, p. 961.]

NOTICE.

WASHINGTON, D. C., *November 25, 1902.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

The American Circular Loom Co., New Orange, N. J.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from the American Federationist, November number, 1902, p. 846.]

NOTICE.

WASHINGTON, D. C., *October 25, 1902.*

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Cluett, Peabody & Co., Troy, N. Y.
The Brumby Chair Co., Marietta, Ga.
James Butler, grocer, New York, N. Y.
W. H. Kemp Co., New York, N. Y.
Andrew Reeves, Chicago, Ill.
George Reeves, Cape May, N. J.
Hastings Co., Philadelphia, Pa.
Henry Ayres, Philadelphia, Pa.
Scotten & Dillon Co., Detroit, Mich.
Hartford Carpet Co., Thompsonville, Conn.
Terre Haute Street Railway Co.
N. Snellenberg & Co., Philadelphia, Pa.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from he American Federationist, October number, 1902, p. 740.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET NW.,
Washington, D. C., September 20, 1902.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Mount Airy Granite Co., Mount Airy, N. C.
Crabtree & Havey, North Sullivan, Me.
Robertson & Havey, North Sullivan, Me.
Hood Rubber Co., Boston, Mass.
Railway Construction Co., Cambridge, Ohio.
Electric Insulation Contracting Co., Chicago, Ill.
Franklin Needle Co., Franklin, N. H.
Page Needle Co., Chicopee Falls, Mass.
Himmelberger Luce Land & Lumber Co., Morehouse, Mo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, July number, 1902, p. 400.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET NW.,
Washington, D C., June 25, 1902.

To all affiliated unions:

At the request of the unions interested and after due investigation and attempt at settlement, the following concern has been declared unfair:

Philadelphia Bulletin, Philadelphia, Pa.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, June number, 1902, p. 339.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET NW.,
Washington, D. C., May 25, 1902.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Iver-Johnson Arms Co., Fitchburg, Mass.
Van Zandt, Jacobs & Co., Troy, N. Y.
Los Angeles Times, Los Angeles, Cal.
Wellman, Osborn & Co., Lynn, Mass.
Singer Sewing Machine Co., Elizabeth, N. J., South Bend, Ind.
Kelsey Furnace Co., Syracuse, N. Y.
John Miller & Co., proprietors of Miller's Game Cock Whisky, Boston, Mass.
Gurney Foundry Co. (Ltd.), Toronto, Ontario.
Narragansett Bay Oyster Co., Providence, R. I.
Sattley Manufacturing Co., Springfield, Ill.
Brown & Sharpe Tool Co., Providence, R. I.
Brown Manufacturing Co., Zanesville, Ohio.
Evens & Howard Sewer Pipe & Fire Brick Co., St. Louis, Mo.
The Brewers' Exchange of Cincinnati, Ohio, Covington and Newport, Ky.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, February number, 1902, p. 85.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., January 3, 1902.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The National Cash Register Co., Dayton, Ohio.
The National Biscuit Co., Chicago, Ill.
Henry H. Roelofs & Co., Philadelphia, Pa.
Jamestown Street Railway Co., Jamestown, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, December number, 1901, p. 574.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
November 25, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Crane Breed & Co., Cincinnati, Ohio.
Casey & Hedges, Chattanooga, Tenn.
Novelty Advertising Co., Coshocton, Ohio.
Meek-Beach Co., Coshocton, Ohio.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, October number, 1901, p. 444.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., September 25, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Brazil Hotel, Buffalo, N. Y.
Genesee Hotel, Buffalo, N. Y.
Davis Manufacturing Co., Dayton, Ohio.
The Computing Scale Co., Dayton, Ohio.
The Davidson Pump Co., Brooklyn, N. Y.
Reinle Bros. & Solomon, Baltimore, Md.
Crescent Couvoirseer Wilcox Co.
Jos. Fahy & Wadsworth Watchcase Co.
Huttig Sash & Door Co., St. Lous, Mo.
Defiance Box Co., Defiance, Ohio.
Wayne County Preserving Co., Newark, N. Y.
Reichert Milling Co., Freeburg, Ill.
American Radiator Co., St. Louis, Mo.
United Shirt & Collar Co.
Garborundum Co., Niagara Falls, N. Y.
Le Furer Arms Co., Gun factory, Syracuse, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, August number, 1901, p. 322.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., July 25, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Lovell & Buffington Tobacco Co., Covington, Ky.
Jos. Fowler Shirt Co., Glens Falls, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, July number, 1901, p. 278.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., June 25, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Riverside Cotton Mills, Danville, Va.
The Whittimore Co., Boston, Mass.
American Billiard Table Co., Cincinnati, Ohio.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, June number, 1901, p. 232.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., May 25, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The McCherry Co., Middletown, Ohio.
New York Sun, New York City.
Terre Haute Gazette, Terre Haute, Ind.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, May number, 1901, p. 191.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., April 25, 1901.

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

The McKinney Bread Co., St. Louis, Mo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, April number, 1901, p. 143.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
423–425 G STREET,
Washington, D. C., March 25, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The Eclipse Stove Co., of Mansfield, Ohio.
The Gooddell Cutlery Co., of Antrim, N. H.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from the American Federationist, February number, 1901, p. 65.]

SPECIAL NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., January 23, 1901.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Jacob Dold Packing Co., of Buffalo, N. Y.
Kerbs, Wertheim & Schiffer, cigars, of New York City.
Litchfield Brick Co., of Litchfield, Ill.
Marshall & Ball, clothing, of Newark, N. J.
The Lee Broom & Duster Co., of Davenport, Iowa.
Kahn Stove Works, of Hamilton, Ohio.
Oliver Bros., brass bedsteads, of Lockport, N. Y.
Peter McCourt Theatrical Circuit, of Denver, Colo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1901, p. 29.]

SPECIAL NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., December 20, 1900.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

J. B. Owens Pottery Co., of Zanesville, Ohio.
Andrew Kimble Bent Wood Works, of Zanesville, Ohio.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, December number, 1900, p. 398.]

SPECIAL NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., November 26, 1900.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Hamilton Manufacturing Co., of Two Rivers, Wis.
The St. Louis Cooperage Co., of St. Louis, Mo.
The Hauser, Brenner & Fath Cooperage Co., of St. Louis, Mo.
The Cincinnati Cooperage Co., of Cincinnati, Ohio.
Belleville Stove Works, of Belleville, Ind.
Terre Haute Brick & Pipe Co., of Terre Haute, Ind.
George M. Hill Co., bookbinders, of Chicago, Ill.
Schoelkpoh & Co., tanners, of Buffalo, N. Y.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, November number, 1900, p. 366.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., October 25, 1900.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Morley Bros. Saddlery Co., Chicago.
Van Camp Packing Co., Indianapolis.
Feister Printing Co., Philadelphia.
Mount Vernon Car Manufacturing Co., Mount Vernon, Ill.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, October number, 1900, p. 331.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., September 25, 1900.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

American Radiator Co., Buffalo, N. Y.
Trinity River Lumber Co., Leonidas, Tex.
Detroit Screw Works, Detroit, Mich.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, July number, 1900, p. 225.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., June 23, 1900.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Keystone Watchcase Co., Philadelphia, Pa.

Pope Manufacturing Co., Hartford, Conn.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1900, p. 25.]

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., December 1, 1899.

To all affiliated unions:

At the request of the union interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

The New York Sun, New York City.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, September number, 1899, p. 181.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., August 25, 1899.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Moench & Sons Co., tanners, Alpena, Mich.

Illinois Iron & Bolt Co., Carpentersville, Ill., makers of wagon skeens, anvils, drills, jackscrews, letterpresses, and press stands.

Andrew Kimbel, manufacturer of carriage and wagon gear, Zanesville, Ohio.

F. X. Ganter, bar and office fixtures, Baltimore, Md.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., July 10, 1899.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

J. B. Owens Co., manufacturers of pottery, Zanesville, Ohio.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, August number, 1899, p. 143.]

NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., July 10, 1899.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Liggett & Myers, Drummond.
John Finzer & Bro.
Luhrman & Wilbern (Polar Bear).
Graddle & Stortz.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, April number, 1899, p. 45.]

NOTICE

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 28, 1899.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

Phillip Spaeter Cooperage Co., of Philadelphia, Pa.
E. & F. Glor Cooperage Co., of Buffalo.
Mosely & Motley Milling Co., Rochester, N. Y.
Lee Broom Co., of Davenport, Iowa.
Shultz & Hirsch, mattress makers, of Chicago.
Rice & Hutchins, manufacturers of boots and shoes, Marlboro, Mass.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, March number, 1899, p. 19.]

SPECIAL NOTICE.

HEADQUARTERS, AMERICAN FEDERATION OF LABOR,
Washington, D. C., February 21, 1899.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

The George Fowler Packing Co., Kansas City, Kans.
Illinois Broom Co.
P. H. Binz Monumental Worker, Cleveland, Ohio.
Landers, Frary & Clark, New Britain, Conn.
Henry H. Roelofs & Co., Philadelphia, Pa.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, January number, 1899, p. 227.]

SPECIAL NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., January 2, 1899.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns have been declared unfair:

S. H. Howe Shoe Co., Marlboro, Mass.
John A. Frye, Marlboro, Mass.
John O'Connell & Son, Marlboro, Mass.
Rice & Hutchins, Marlboro, Mass.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from American Federationist, December number, 1898, p. 209.]

SPECIAL NOTICE.

HEADQUARTERS AMERICAN FEDERATION OF LABOR,
Washington, D. C., November 15, 1898.

To all affiliated unions:

At the request of the unions interested, and after due investigation and attempt at settlement, the following concerns were declared unfair:

Carl Upman & Co., cigar manufacturer, New York City.
S. H. Weller Pottery Co., Zanesville, Ohio.
N. V. Haight, publisher, Poughkeepsie, N. Y.

Secretaries are requested to read this notice at union meetings, and labor press please copy.

Fraternally, yours,

SAMUEL GOMPERS,
President American Federation of Labor.

[Extract from the American Federationist for the month of February, 1902, pp. 74 to 84.]

WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC.

FLORIDA.

Jacksonville. Organizer reports: "All American Federation of Labor boycotts are observed."

ILLINOIS.

Blue Island. Organizer reports: "All boycotts are being pushed." Another organizer reports: "All American Federation of Labor boycotts are observed."

Decatur. Organizer reports: "All American Federation of Labor boycotts are being pushed."

Evansville. Organizer reports: "All boycotts announced in American Federationist are observed."

East St. Louis. Organizer reports: "All American Federation of Labor boycotts are being pushed."

INDIANA.

Kokomo. Organizer reports: "Boycott against Lovell & Buffington, tobacco dealers, is being pushed."

KENTUCKY.

Central City. Organizer reports: "All names on the American Federation of Labor unfair list are observed."

MICHIGAN.

Flint. Organizer reports: "All American Federation of Labor boycotts are being pushed."

Grand Rapids. Organizer reports: "All American Federation of Labor boycotts are being pushed."

Ionia. Organizer reports: "All boycotts known are being pushed."

MISSOURI.

Higginsville. Organizer reports: "The tobacco boycott is observed."

MONTANA.

Bonner. Organizer reports: "All boycotts are being pushed as far as possible."

NEW YORK.

Poughkeepsie. Organizer reports: "All boycotts on the list are observed."

OHIO.

Cincinnati. Organizer reports: "Hamilton-Brown and Rice & Hutchins shoes companies and a printing company boycotts are being pushed."
Findlay. Organizer reports: "All boycotts are being pushed."
Urbana. Organizer reports: "All American Federation of Labor boycotts are being observed."

[Extracts from American Federationist for the month of July, 1902, pp. 379 to 398.]

ARKANSAS.

Paragould. Organizer reports: "All boycotts published by the American Federationist are observed."

CALIFORNIA.

Sacramento. Organizer reports: "All American Federation of Labor boycotts are being pushed."

CONNECTICUT.

Norwich. Organizer reports: "All American Federation of Labor boycotts are observed."

DELAWARE.

Wilmington. Organizer reports: "All the American Federation of Labor boycotts are pushed."

FLORIDA.

Tampa. Organizer reports: "All American Federation of Labor boycotts are observed."

GEORGIA.

Savannah. Organizer reports: "The boycott against the National Biscuit Co. is being pushed."

ILLINOIS.

Alton. Organizer reports: "The boycott against the National Biscuit Co. is being pushed."
Bloomington. Organizer reports: "The boycott against the Radiant Home Stove is being pushed."
Freeport. Organizer reports: "Boycott against the Radiant Home Stove is being pushed."
Waukegan. Organizer reports: "All the American Federation of Labor boycotts are being pushed."

INDIANA.

Brazil. Organizer reports: "The American Federation of Labor boycotts on cigars, shoes, beer, and stoves are being pushed."
Elkhart. Organizer reports: "All American Federation of Labor boycotts are pushed."
Hammond. Organizer reports: "Boycott on the National Biscuit Co. is observed."
Linton. Organizer reports: "All unfair firms are boycotted."
Logansport. Organizer reports: "The boycott against the American Tobacco Co. is especially pushed."
Muncie. Organizer reports: "All American Federation of Labor boycotts are vigorously pushed."
Vincennes. Organizer reports: "All American Federation of Labor boycotts are being pushed."

IOWA.

Des Moines. Organizer reports: "All trust made cigars are boycotted."

INDIAN TERRITORY.

McAllister. Organizer reports: "Several of the American Federation of Labor boycotts are being pushed."

KENTUCKY.

Uniontown. Organizer reports: "All boycotts are being pushed."

MASSACHUSETTS.

Bay State. Organizer reports: "All shoes and tobacco declared unfair by the American Federation of Labor are boycotted."
Fitchburg. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Lynn. Organizer reports: "Boycotts on the tobacco trusts are being pushed."
Milford. Organizer reports: "All American Federation of Labor boycotts are being pushed."

MICHIGAN.

Albion. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Ionia. Organizer reports: "All boycotts published by the American Federationist are observed."
Kalamazoo. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Port Huron. Organizer reports: "Have stopped the sale of tools manufactured by Brown & Sharpe."

MINNESOTA.

Minneapolis. Organizer reports: "All the American Federation of Labor boycotts that we know are observed."

MISSOURI.

Springfield. Organizer reports: "We are beginning to push all American Federation of Labor boycotts."
St. Louis. Organizer reports: "The boycott against the American Tobacco Co. is being pushed."

NEW JERSEY.

Elizabeth. Organizer reports: "All boycotts affecting this city are being pushed."
Hoboken. Organizer reports: "All American Federation of Labor boycotts are being pushed."
New Brunswick. Organizer reports: "American Federation of Labor boycotts are being pushed."

NEW YORK.

Fulton. Organizer reports: "All American Federation of Labor boycotts are observed."
Gouverneur. Organizer reports: "The boycott against the Knoxville Woolen Goods firm is pushed."
Jamestown. Organizer reports: "The boycotts against the Henry George and the Tom Moore cigars are especially observed."
Utica. Organizer reports: "All American Federation of Labor boycotts are observed."
Watertown. Organizer reports: "Are making a special fight on the American Tobacco Co."

NORTH CAROLINA.

Raleigh. Organizer reports: "All American Federation of Labor boycotts are being pushed."

OHIO.

Cleveland. Organizer reports: "All boycotts are observed."
Columbus. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Crooksville. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Findlay. Organizer reports: "All American Federation of Labor boycotts are pushed."
Galion. Organizer reports: "All American Federation of Labor boycotts are observed."
Hamilton. Organizer reports: "All boycotts announced by the American Federationist are observed."
Mount Vernon. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Newark. Organizer reports: "Nearly all the American Federation of Labor boycotts are being pushed."
Youngstown. Organizer reports: "All American Federation of Labor boycotts are observed."
Zanesville. Organizer reports: "All American Federation of Labor boycotts are being pushed."

PENNSYLVANIA.

Erie. Organizer reports: "All American Federation of Labor boycotts known here are being pushed."
Franklin. Organizer reports: "All boycotts known here are pushed."
Harrisburg. Organizer reports: "We are fighting the Ice Trust and the nonunion cigar factories."
Philadelphia. Organizer reports: "All American Federation of Labor boycotts are observed."
Pittston. Organizer reports: "All boycotts are being pushed."
Wilkes-Barre. Organizer reports: "We are pushing all the American Federation of Labor boycotts that we can reach."
York. Organizer reports: "All the boycotts that we know are observed."

TEXAS.

Palestine. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Sherman. Organizer reports: "All American Federation of Labor boycotts are being pushed."

VERMONT.

Barre. Organizer reports: "An active interest is taken in all boycotts published by the American Federationist."

WEST VIRGINIA.

Huntington. Organizer reports: "All boycotts are being pushed."

WISCONSIN.

Superior. Organizer reports: "All boycotts announced by the American Federationist are observed."

[Extract from American Federationist for the month of June, 1902, pp. 241–258.]

WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC.

ALABAMA.

Birmingham. Organizer reports: "Boycotts against Tobacco Trust are being pushed."

ARKANSAS.

Paragould. Organizer reports: "All boycotts are being pushed."

CALIFORNIA.

Los Angeles. Organizer reports: "All boycotts are observed."

DELAWARE.

Wilmington. Organizer reports: "All boycotts are being pushed."

ILLINOIS.

Decatur. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Chicago. Organizer reports: "We are insisting that all members buy union-made goods."
Freeport. Organizer reports: "Boycott against Radiant Home Stove is being pushed."
Kankakee. Organizer reports: "All boycotts are being pushed in a mild way."
Metropolis. Organizer reports: "All boycotts are being pushed."
Percy. Organizer reports: "All American Federation of Labor boycotts are observed."
Quincy. Organizer reports: "All boycotts are vigorously observed."
Salem. Organizer reports: "We have all troubles settled and all union men are asking for union-made goods. We will whoop things up this summer."
Springfield. Organizer reports: "All boycotts are being pushed."
Waukegan. Organizer reports: "All boycotts are being pushed."

INDIANA.

Elkhart. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Marion. Organizer reports: "All boycotts that are reported are being pushed."
Muncie. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Shelbyville. Organizer reports: "The whole list of boycotts are being pushed as far as possible."
South Bend. Organizer reports: "All American Federation of Labor boycotts are being pushed."

IOWA.

Albion. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Burlington. Organizer reports: "All boycotts are being pushe ."
Des Moines. Organizer reports: "Boycotts against Conkey's books and Reliable stoves are being pushed."
Muscatine. Organizer reports: "All boycotts are being pushed."

KENTUCKY.

Sturgis. Organizer reports: "All boycotts are observed."

MASSACHUSETTS.

Fitchburg. Organizer reports: "All boycotts are being pushed."
Holyoke. Organizer reports: "We are doing all we can at present for boycotts."
Lynn. Organizer reports: "Boycott against Tobacco Trust is being pushed."

MICHIGAN.

Flint. Organizer reports: "All boycotts are being pushed."
Ionia. Organizer reports: "All boycotts which are reported are vigorously pushed."
Manistee. Organizer reports: "Favorable work is being done for boycotts."
North Port Huron. Organizer reports: "The sale of Tom Moore and Henry George cigars has been stopped."
West Bay City. Organizer reports: "All boycotts are being pushed."

MISSOURI.

De Soto. Organizer reports: "Boycott against McKinney, bakers, of St. Louis, is being pushed."

Higginsville. Organizer reports: "Boycotts on bread, tobacco, and clothing are observed."
Springfield. Organizer reports: "We are doing all we can for boycotts."

NEW HAMPSHIRE.

Manchester. Organizer reports: "American Federation of Labor boycotts are read at all Central Labor Union meetings."

NEW JERSEY.

New Brunswick. Organizer reports: "All boycotts that are recommended are observed."

NEW YORK.

Binghamton. Organizer reports: "All boycotts are being pushed."
Dunkirk. Organizer reports: "All boycotts published are being pushed."
Fulton. Organizer reports: "All American Federation of Labor boycotts are observed."
Jamestown. Organizer reports: "Boycotts are being pushed."
Norwich. Organizer reports: "All boycotts which can be reached are being pushed."
Oneida. Organizer reports: "Boycott against Wadsworth Watchcase Co. is being pushed."
Poughkeepsie. Organizer reports: "All boycotts are pushed."
Watertown. Organizer reports: "All boycotts are being pushed."

NORTH CAROLINA.

Charlotte. Organizer reports: "Boycott against American Tobacco Co. is being pushed."

OHIO.

Bellaire. Organizer reports: "Boycotts are being pushed."
Cleveland. Organizer reports: "All boycotts on list are being pushed."
Columbus. Organizer reports: "All boycotts are being pushed."
Crooksville. Organizer reports: "All boycotts are being pushed."
Findlay. Organizer reports: "All boycotts receive attention."
Hamilton. Organizer reports: "All boycotts published in the American Federationist are pushed."
Sidney. Organizer reports: "All known boycotts are recognized."
Zanesville. Organizer reports: "All American Federation of Labor boycotts are being pushed. One injunction has been issued and it is still on."

OKLAHOMA TERRITORY.

Oklahoma. Organizer reports: "All American Federation of Labor boycotts are being pushed."

PENNSYLVANIA.

Ashland. Organizer reports: "All boycotts are being pushed."
Butler. Organizer reports: "Boycott against Whitemore polish being pushed."
Dubois. Organizer report: "We are pushing all boycotts."
Erie. Organizer reports: "Boycott against Black & Germer stoves is being pushed."
Lancaster. Organizer reports: "All American Federation of Labor boycotts are observed."
Reading. Organizer reports: "The people of Reading are doing all they can to push the boycott against the Cubanola cigars. The cigars are always sent back and the sign taken down."
Scranton. Organizer reports: "Boycotts are being pushed to some extent."
Warren. Organizer reports: "All boycotts are observed."
West Philadelphia. Organizer reports: "All boycotts are being pushed."
Wilkes-Barre. Organizer reports: "All boycotts are being pushed."
Williamsport. Organizer reports: "Great interest manifested and all boycotts pushed."

RHODE ISLAND.

Pawtucket. Organizer reports: "All boycotts are being pushed."

TENNESSEE.

Knoxville. Organizers report: "Boycott against the Knoxville Woolen Mills is being pushed. We are doing all we can for boycotts, especially those on clothing."

TEXAS.

Palestine. Organizer reports: "Boycott against clothing firms is being pushed."
Sherman. Organizer reports: "All boycotts are being observed."

WYOMING.

Cheyenne. Organizer reports: "Have a committee also to look after boycotts."

[Extract from American Federationist for the month of August, 1902, pp. 446 to 464.]

"WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC."

ALABAMA.

Birmingham. Organizer reports: "All boycotts are observed."

CONNECTICUT.

Norwich. Organizer reports: "All American Federation of Labor boycotts are being observed."

ILLINOIS.

Cairo. Organizer reports: "All American Federation of Labor boycotts are pushed."
Kewanee. Organizer reports: "All boycotts are being pushed."
Murphysboro. Organizer reports: "All American Federation of Labor boycotts are pushed."
Percy. Organizer reports: "All American Federation of Labor boycotts are pushed."
Springfield. Organizer reports: "All American Federation of Labor boycotts are watched."

INDIANA.

Elwood. Organizer reports: "All boycotts are pushed."
Hammond. Organizer reports: "Boycott against National Biscuit Co. is pushed."
Logansport. Organizer reports: "All American Federation of Labor boycotts observed."
Muncie. Organizer reports: "All boycotts are pushed."

IOWA.

Boone. Organizer reports: "All boycotts are pushed."
Burlington. Organizer reports: "We try to push all the American Federation of Labor boycotts."
Clinton. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Dubuque. Organizer reports: "All American Federation of Labor boycotts are pushed."

KANSAS.

Pittsburg. Organizer reports: "We are pushing all boycotts."

KENTUCKY.

Uniontown. Organizer reports: "All the boycotts published by the American Federationist are observed."

MASSACHUSETTS.

Lawrence. Organizer reports: "All American Federation of Labor boycotts are looked after."

MICHIGAN.

Muskegon. Organizer reports: "All boycotts published by the American Federationist are pushed."

MINNESOTA.

Minneapolis. Organizer reports: "All boycotts are being pushed."

MISSOURI.

Higginsville. Organizer reports: "All American Federation of Labor boycotts affecting this city are pushed."
Kansas City. Organizer reports: "All American Federation of Labor boycotts are being observed."
Springfield. Organizer reports: "All boycotts possible are being pushed."

MONTANA.

Butte. Organizer reports: "All boycotts are being pushed."

NEW JERSEY.

Hoboken. Organizer reports: "All American Federation of Labor boycotts are being pushed."
New Brunswick. Organizer reports: "All boycotts recommended by the American Federation of Labor are pushed."
Salem. Organizer reports: "We are also pushing the boycott against the Whittimore Shoe Polish Co."

NEW YORK.

Binghamton. Organizer reports: "We are pushing the boycott against the American Tobacco Co."
Elmira. Organizer reports: "All American Federation of Labor boycotts are pushed."
Fulton. Organizer reports: "All boycotts are observed."
New York City. Organizer reports: "Have special attention called to all American Federation of Labor boycotts."
Norwich. Organizer reports: "All boycotts that we know are pushed."
Ogdensburg. Organizer reports: "The boycott against the National Biscuit Co. is being pushed."
Oneida. Organizer reports: "All American Federation of Labor boycotts are pushed."
Poughkeepsie. Organizer reports: "All boycotts are being pushed. This is the best organized city between Albany and New York."
Watertown. Organizer reports: "All boycotts are observed."

OHIO.

Columbus. Organizer reports: "All published boycotts are observed."
Crooksville. Organizer reports: "All boycotts are pushed."
Marietta. Organizer reports: "All boycotts that come to our notice are being pushed."
Mount Vernon. Organizer reports: "All boycotts appearing on the unfair list are observed."
Youngstown. Organizer reports: "All American Federation of Labor boycotts within our notice are pushed."
Zanesville. Organizer reports: "All American Federation of Labor boycotts are pushed."

OKLAHOMA TERRITORY.

Oklahoma. Organizer reports: "All American Federation of Labor boycotts are being pushed."

OREGON.

Astoria. Organizer reports: "All American Federation of Labor boycotts within our reach are pushed."

PENNSYLVANIA.

Carbondale. Organizer reports: All American Federation of Labor boycotts published by the American Federationist are observed."
Meadville. Organizer reports: "All boycotts on the list in the American Federationist are being pushed."
Mount Carmel. Organizer reports: "We are pushing the boycott against the American Tobacco Co."
Pittsburgh. Organizer reports: "Boycott on Cincinnati beer is pushed."
Pittston. Organizer reports: "All boycotts are pushed."
Scranton. Organizer reports: "All American Federation of Labor boycotts are pushed."

RHODE ISLAND.

Pawtucket. Organizer reports: "All American Federation of Labor boycotts are being pushed."

TENNESSEE.

Knoxville. Organizer reports: "We have vigorously pushed the Knoxville Woolen Mill boycott and with good result. They have now started two large clothing factories at Knoxville and Nashville, respectively, for the purpose of making up their goods into clothing and thus get around the boycott. They go under the name of the National Woolen Co. We will send out list to the different unions, notifying them, and will consequently treat the National Woolen Co. as we do the Knoxville Woolen Mills."

TEXAS.

Cleburne. Organizer reports: "We are pushing all boycotts on nonunion-made tobaccos."
Palestine. Organizer reports: "All boycotts recommended by the American Federation of Labor are being pushed."
Sherman. Organizer reports: "All American Federation of Labor boycotts are being pushed."

VERMONT.

Rutland. Organizer reports: "We are specially pushing the boycotts against the Continental and American Tobacco Co."

WASHINGTON.

Seattle. Organizer reports: "All American Federation of Labor boycotts are pushed, especially the National Biscuit Co., trust-made cigars, and convict-made brooms."

WISCONSIN.

Marinette. Organizer reports: "All American Federation of Labor boycotts are pushed."
Superior. Organizer reports: "All American Federation of Labor boycotts published by the American Federationist are pushed."

[Extract from the American Federationist for the month of September, 1902, pp. 524 to 536.]

WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC.

ALABAMA.

Birmingham. Organizer reports: "All American Federation of Labor boycotts are being pushed."

CALIFORNIA.

Fresno. Organizer reports: "All boycotts are pushed."

COLORADO.

Pueblo. Organizer reports: "All boycotts are pushed."

CONNECTICUT.

Danbury. Organizer reports: "We are pushing the boycotts against all nonunion-made cigars and tobaccos."
New London. Organizer reports: "We are pushing all boycotts published in the American Federationist."
Norwich. Organizer reports: "All boycotts are pushed."
Thompsonville. Organizer reports: "We are pushing the boycott against the National Biscuit Co."

DELAWARE.

Wilmington. Organizer reports: "All American Federation of Labor boycotts are being pushed."

ILLINOIS.

Bloomfield. Organizer reports: "All boycotts appearing on the American Federation of Labor list are pushed."
Cairo. Organizer reports: "All American Federation of Labor boycotts are pushed."
Kewanee. Organizer reports: "All American Federation of Labor boycotts are being pushed, especially those against unfair cigars."
Metropolis City. Organizer reports: "All American Federation of Labor boycotts are pushed."
Peoria. Organizer reports: "All boycotts are pushed."
Quincy. Organizer reports: "All boycotts are pushed."

INDIANA.

Arcadia. Organizer reports: "All boycotts are pushed."
Elwood. Organizer reports: "All American Federation of Labor boycotts are pushed."
Evansville. Organizer reports: "All boycotts called to our attention are pushed."
Fairland. Organizer reports: "The boycotts against nonunion tobacco, cigars, and bread are being pushed."
Linton. Organizer reports: "All boycotts that we know are being pushed."
Logansport. Organizer reports: "All American Federation of Labor boycotts are being pushed. Boycott is being pushed against American Tobacco Co."
Muncie. Organizer reports: "American Federation of Labor boycotts are being pushed."
Vincennes. Organizer reports: "All boycotts are pushed."

IOWA.

Boone. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Des Moines. Organizer reports: "We are pushing the boycotts against all trust-made cigars."
Ottumwa. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Sioux City. Organizer reports: "The American Federation of Labor boycotts are being pushed."

KENTUCKY.

Cleaton. Organizer reports: "All American Federation of Labor boycotts appearing in the American Federationist are pushed."
Uniontown. Organizer reports: "All boycotts appearing on the list are being pushed."

MAINE.

Portland. Organizer reports: "All boycotts are pushed."

MASSACHUSETTS.

Holyoke. Organizer reports: "Attention is paid to all American Federation of Labor boycotts."

North Adams. Organizer reports: "We are pushing boycotts against nonunion-made cigars and tobaccos, the Rice & Hutchins Shoe Co., and United Collar Co., of Troy. This is the only city in New England in which the American Tobacco Co. failed to introduce the most extensively advertised cigars, such as the Florodora, Cubanola, and others."

MICHIGAN.

Albion. Organizer reports: "All American Federation of Labor boycotts are pushed."
Houghton. Organizer reports: "We are pushing the boycott against the Knoxville Woolen Mills."
Ionia. Organizer reports: "All American Federation of Labor boycotts reported are pushed."
Kalamazoo. Organizer reports: "All boycotts are pushed."
Ypsilanti. Organizer reports: "We are pushing all boycotts."

MINNESOTA.

Minneapolis. Organizer reports: "All boycotts are being pushed."

MISSOURI.

Hannibal. Organizer reports: "The American Federation of Labor boycotts are pushed."
Joplin. Organizer reports. "All boycotts are being pushed."
Kansas City. Organizer reports: "All boycotts are being pushed."
Springfield. Organizer reports: "An effort is being made to push all boycotts."

MONTANA.

Helena. Organizer reports: "All American Federation of Labor boycotts are being pushed."

NEW YORK.

Addison. Organizer reports: "All boycotts are pushed."
Fulton. Organizer reports: "All American Federation of Labor boycotts are pushed."
Gouverneur. Organizer reports: "All boycotts are pushed."
Niagara Falls. Organizer reports: "We are pushing the boycotts against all unfair tobaccos and against the National Biscuit Co."
Poughkeepsie. Organizer reports: "We keep our attention on all boycotts."
Tonawanda. Organizer reports: "We are pushing all boycotts that appear on the unfair list of the American Federationist."
Utica. Organizer reports: "All American Federation of Labor boycotts are pushed."

NEW JERSEY.

Elizabeth. Organizer reports: "All boycotts that we can reach are pushed."
New Brunswick. Organizer reports: "American Federation of Labor boycotts are pushed."

NORTH CAROLINA.

Asheville. Organizer reports: "We are pushing the boycotts against the Kingan Packing Co. and American Tobacco Co."

OHIO.

Bellaire Organizer reports: "We are pushing all American Federation of Labor boycotts."
Crooksville. Organizer reports: "All American Federation of Labor boycotts are pushed."

OREGON.

Astoria. Organizer reports: "We are pushing boycotts on all unfair tobacco and clothing."

PENNSYLVANIA.

Easton. Organizer reports. "We are pushing all the boycotts that we know."
Franklin. Organizer reports: "We are pushing the boycotts against Brown & Sharpe Co. and the Singer Machine Co."

Lock Haven. Organizer reports: "We are pushing all boycotts."
Philadelphia. Organizer reports: "All boycotts published are pushed."
Pittsburgh. Organizer reports: "We are pushing the boycott against Brewers Exchange of Cincinnati."
Pittston. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Wilkes-Barre. Organizer reports: "All boycotts are pushed."
Williamsport. Organizer reports: "We are pushing the boycotts against National Biscuit Co. and the American Cigar Co."

RHODE ISLAND.

Providence. Organizer reports: "All American Federation of Labor boycotts are pushed."

TENNESSEE.

Knoxville. Organizer reports: "The boycott against the Knoxville Woolen Mills is pushed vigorously. All boycotts are pushed."

VERMONT.

Barre. Organizer reports: "All boycotts on unfair shoes and the one against the National Biscuit Co. are pushed."

WASHINGTON.

Spokane. Organizer reports: "Just at present, we are pushing boycotts against nonunion cigars principally."

[Extract from the American Federationist, for the month of October, 1902, pp. 717 to 729.]

WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC.

ARKANSAS.

Paragould. Organizer reports: "All American Federation of Labor boycotts are pushed."

CALIFORNIA.

Fresno. Organizer reports: "All American Federation of Labor boycotts are pushed."

CONNECTICUT.

Hartford. Organizer reports: "All American Federation of Labor boycotts are pushed."
Norwich. Organizer reports: "All American Federation of Labor boycotts are pushed."
Thompsonville. Organizer reports: "All American Federation of Labor boycotts are pushed."

ILLINOIS.

Aurora. Organizer reports: "All American Federation of Labor boycotts are being pushed."
East St. Louis. Organizer reports: "All American Federation of Labor boycotts are pushed."
Kewanee. Organizer reports: "We are pushing all boycotts."
Paris. Organizer reports: "All American Federation of Labor boycotts are being pushed."

INDIANA.

Hammond. Organizer reports: "We are pushing the boycott against the National Biscuit Co."
Indianapolis. Organizer reports: "The boycott on the Kingan Packing Co. is pushed."
Owensville. Organizer reports. "All boycotts we know are pushed."
Vincennes. Organizer reports: "We are also pushing all American Federation of Labor boycotts."

IOWA.

Burlington. Organizer reports: "All American Federation of Labor boycotts are pushed."
Clinton. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Dubuque. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Waterloo. Organizer reports: "We are especially pushing boycotts against all unfair cigars."

KANSAS.

Pittsburg. Organizer reports: "All American Federation of Labor boycotts are pushed."

KENTUCKY.

Central City. Organizer reports: "We are pushing the boycott against the Kingan Packing Co."
Henderson. Organizer reports: "All boycotts are pushed."
Louisville. Organizer reports: "All American Federation of Labor boycotts are pushed."

MAINE.

Portland. Organizer reports: "All American Federation of Labor boycotts are pushed."

MASSACHUSETTS.

Bay State. Organizer reports: "We are specially pushing the boycott against the American Tobacco Co."
Fitchburg. Organizer reports: "All boycotts are pushed."
Holyoke. Organizer reports: "Boycott against the National Biscuit Co. is being specially pushed."

MICHIGAN.

Benton Harbor. Organizer reports: "All boycotts on the unfair list are pushed."
Ionia. Organizer reports: "All American Federation of Labor boycotts published by the American Federationist are pushed."
Kalamazoo. Organizer reports: "We are observing all American Federation of Labor boycotts."
Saginaw. Organizer reports: "All American Federation of Labor boycotts are pushed."
Ypsilanti. Organizer reports: "We are observing all American Federation of Labor boycotts."

MINNESOTA.

Minneapolis. Organizer reports: "All American Federation of Labor boycotts are observed."

MISSOURI.

Kansas City. Organizer reports: "All American Federation of Labor boycotts are being pushed."

NEW YORK.

Fulton. Organizer reports: "All American Federation of Labor boycotts are observed."
Jamestown. Organizer reports: "We are observing all American Federation of Labor boycotts."
New York City. Organizer reports: "At all union meetings boycotting all unfair employers is urged."
Oneonta. Organizer reports: "We are pushing the boycotts against all trust-made cigars."
Ogdensburg. Organizer reports: "Boycott against the National Biscuit Co. is pushed."
Rome. Organizer reports: "We are pushing boycotts against all trust-made goods."
Watertown. Organizer reports: "We are looking after all American Federation of Labor boycotts."

NEW JERSEY.

New Brunswick. Organizer reports: "All American Federation of Labor boycotts are pushed."
Orange. Organizer reports: "We are specially pushing boycotts against trust-made cigars and tobacco."
Paterson. Organizer reports: "All American Federation of Labor boycotts are pushed."

OHIO.

Canton. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Cleveland. Organizer reports: "All American Federation of Labor boycotts are pushed."
Cincinnati. Organizer reports: "We are pushing the boycotts against Cincinnati brewers."
Crooksville. Organizer reports: "All American Federation of Labor boycotts are pushed."
Columbus. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Chillicothe. Organizer reports: "We are pushing the boycott against the Brewers' Exchange."
Findlay. Organizer reports: "We are pushing all boycotts."
Mount Vernon. Organizer reports: "All American Federation of Labor boycotts are observed."
Sidney. Organizer reports: "All American Federation of Labor boycotts that we know are pushed."
Urbana. Organizer reports: "We are observing all American Federation of Labor boycotts."
Youngstown. Organizer reports: "We are vigorously pushing all American Federation of Labor boycotts."
Zanesville. Organizer reports: "All American Federation of Labor boycotts are pushed."

OKLAHOMA TERRITORY.

Oklahoma City. Organizer reports: "All American Federation of Labor boycotts are observed."

OREGON.

Portland. Organizer reports: "All boycotts are pushed."

PENNSYLVANIA.

Easton. Organizer reports: "All boycotts that we know are pushed."
Franklin. Organizer reports: "All American Federation of Labor boycotts are pushed."
Lock Haven. Organizer reports: "We are urging boycotts against all trust-made goods."
Pittston. Organizer reports: "We are pushing boycotts against all trust-made goods."
Plymouth. Organizer reports: "We are especially pushing boycott against the National Biscuit Co."
Wilkes-Barre. Organizer reports: "All boycotts that we can reach are pushed."

RHODE ISLAND.

Pawtucket. Organizer reports: "All American Federation of Labor boycotts are pushed."

TENNESSEE.

Knoxville. Organizer reports: "We are urging all American Federation of Labor boycotts, particularly against the Knoxville Woolen Mills."

TEXAS.

Dallas. Organizer reports: "All American Federation of Labor boycotts are pushed."
Denison. Organizer reports: "We are urging all American Federation of Labor boycotts."

El Paso. Organizer reports: "All American Federation of Labor boycotts are observed."
Palestine. Organizer reports: "All American Federation of Labor boycotts are being pushed."
Sherman. Organizer reports: "We are pushing all American Federation of Labor boycotts."

VIRGINIA.

Richmond. Organizer reports: "All American Federation of Labor boycotts are observed."

WISCONSIN.

Green Bay. Organizer reports: "We are urging the boycotts against trust-made cigars and tobaccos."
Milwaukee. Organizer reports: "All boycotts are enforced."
Superior. Organizer reports: "All boycotts on the list of the American Federation list are pushed."

[Extract from the American Federationist for the month of November, 1902, pp. 819 to 835.]

WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC.

ALABAMA.

Birmingham. Organizer reports: "All American Federation of Labor boycotts are being pushed.

CALIFORNIA.

Bakersfield. Organizer reports: "All American Federation of Labor boycotts reported are pushed."

CONNECTICUT.

Hartford. Organizer reports: "All American Federation of Labor boycotts are pushed."
New London. Organizer reports: "We are pushing boycotts against the National Biscuit Co. and the Continental Tobacco Co."
Thompsonville. Organizer reports: "All American Federation of Labor boycotts are pushed."

FLORIDA.

Jacksonville. Organizer reports: "We are pushing all boycotts."

ILLINOIS.

Aurora. Organizer reports: "We are observing all American Federation of Labor boycotts."
East St. Louis. Organizer reports: "All American Federation of Labor boycotts are observed."
Kewanee. Organizer reports: "All American Federation of Labor boycotts are observed."
Murphysboro. Organizer reports: "All boycotts that we know are pushed."
Percy. Organizer reports: "All American Federation of Labor boycotts are observed."
Waukegan. Organizer reports: "All boycotts that we know are pushed."

INDIANA.

Booneville. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Linton. Organizer reports: "All American Federation of Labor boycotts appearing on the American Federationist list are observed."
Logansport. Organizer reports: "All trust-made goods are boycotted."
Muncie. Organizer reports: "We are observing all American Federation of Labor boycotts."
Owensboro. Organizer reports: "All unfair goods are avoided and all boycotts are strictly observed."
Vincennes. Organizer reports: "We are pushing American Federation of Labor boycotts."

IOWA.

Boone. Organizer reports: "All American Federation of Labor boycotts are pushed."
Clinton. Organizer reports: "All American Federation of Labor boycotts are pushed."
Dubuque. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Waterloo. Organizer reports: "We are pushing the boycotts against all unfair cigars."

KENTUCKY.

Central City. Organizer reports: "We are pushing the boycott against the Kingan Packing Co."
Cleaton. Organizer reports: "We are pushing all boycotts that appear on the unfair list."
Drakesboro. Organizer reports: "All American Federation of Labor boycotts published are pushed."
Louisville. Organizer reports: "All American Federation of Labor boycotts are observed."
Paducah. Organizer reports: "All American Federation of Labor boycotts are observed."
Uniontown. Organizer reports: "All American Federation of Labor boycotts that we know are pushed."

LOUISIANA.

New Orleans. Organizer reports: "All organizations are pushing the boycotts against all unfair beer, bread, and tobaccos."

MASSACHUSETTS.

Bay State. Organizer reports: "We are specially pushing the boycott against the American Tobacco Co."
Holyoke. Organizer reports: "All American Federation of Labor boycotts are observed."

MICHIGAN.

Ionia. Organizer reports: "All American Federation of Labor boycotts on the unfair list are pushed."
Kalamazoo. Organizer reports: "All American Federation of Labor boycotts are observed."

MINNESOTA.

Minneapolis. Organizer reports: "All boycotts are observed."
St. Paul. Organizer reports: "All American Federation of Labor boycotts are observed."

MISSOURI.

Higginsville. Organizer reports: "All boycotts are pushed."
Jackson. Organizer reports: "All boycotts advertised in the American Federationist are pushed."
Joplin. Organizer reports: "All American Federation of Labor boycotts are pushed."
Kansas City. Organizer reports: "All American Federation of Labor boycotts are pushed."
Springfield. Organizer reports: "All in our power is done to push boycotts against unfair goods."

MONTANA.

Helena. Organizer reports: "All American Federation of Labor boycotts that we know are pushed."

NEW JERSEY.

Orange. Organizer reports: "All American Federation of Labor boycotts are observed."

NEW YORK.

Cohoes. Organizer reports: "All American Federation of Labor boycotts are observed."
Geneva. Organizer reports: "We are specially pushing the boycott against the Herendeen Manufacturing Co."
Jamestown. Organizer reports: "All boycotts are observed."
Norwich. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Ogdensburg. Organizer reports: "We are pushing the boycott against the National Biscuit Co."
Oneida. Organizer reports: "All American Federation of Labor boycotts are pushed."
Rome. Organizer reports: "All American Federation of Labor boycotts on the unfair list are pushed."
Utica. Organizer reports: "We are observing all American Federation of Labor boycotts."

OHIO.

Chillicothe. Organizer reports: "All American Federation of Labor boycotts are pushed."
Cleveland. Organizer reports: "All American Federation of Labor boycotts are pushed."
Columbus. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Coshocton. Organizer reports: "We are pushing boycotts against Novelty Advertising Co. and Meek Beech Co."
Crooksville. Organizer reports: "All American Federation of Labor boycotts are observed."
Youngstown. Organizer reports: "All American Federation of Labor boycotts are pushed."
Zanesville. Organizer reports: "All American Federation of Labor boycotts are pushed."

OKLAHOMA.

Oklahoma City. Organizer reports: "We are pushing all American Federation of Labor boycotts."

PENNSYLVANIA.

Altoona. Organizer reports: "All boycotts published by the American Federationist are pushed."
Dubois. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Franklin. Organizer reports: "We are pushing boycotts, especially against all unfair cigars."
Lancaster. Organizer reports: "All unfair goods are boycotted."
Lock Haven. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Meadville. Organizer reports: "We are observing all American Federation of Labor boycotts."
Shamokin. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Warren. Organizer reports: "We are pushing the boycott against the brewers in Cincinnati."
Williamsport. Organizer reports: "We are specially pushing the boycott against the National Biscuit Co."

RHODE ISLAND.

Pawtucket. Organizer reports: "All American Federation of Labor boycotts are observed."

TENNESSEE.

Knoxville. Organizer reports: "The boycott against the Knoxville Woolen Co. is being pushed with renewed vigor. We are pushing all other boycotts."

TEXAS.

El Paso. Organizer reports: "All boycotts that we know of are observed."
Houston. Organizer reports: "We are pushing boycotts against all nonunion goods."
Sherman. Organizer reports: "We are pushing all American Federation of Labor boycotts."

VERMONT.

Rutland. Organizer reports: "We are specially pushing boycotts against the Continental Tobacco Co. and National Biscuit Co."

VIRGINIA.

Richmond. Organizer reports: "We are observing all American Federation of Labor boycotts."

WEST VIRGINIA.

Huntington. Organizer reports: "All American Federation of Labor boycotts are observed."

WISCONSIN.

Fond du Lac. Organizer reports: "All American Federation of Labor boycotts are pushed."
Milwaukee. Organizer reports: "We are pushing all American Federation of Labor boycotts."
Superior. Organizer reports: "All boycotts appearing on the list of the American Federationist are observed."

[Extract from American Federationist for the month of December, 1902, pp. 940 to 953.]

WHAT OUR ORGANIZERS ARE DOING FROM THE ATLANTIC TO THE PACIFIC.

ALABAMA.

Birmingham. Organizer reports: "All American Federation of Labor boycotts are observed."
Selma. Organizer reports: "All American Federation of Labor boycotts are observed."

ARKANSAS.

Paragould. Organizer reports: "All American Federation of Labor boycotts are observed."
Texarkana. Organizer reports: "All American Federation of Labor boycotts are observed."

CALIFORNIA.

San Bernardino. Organizer reports: "The boycott against the Los Angeles Times is pushed."
Santa Rosa. Organizer reports: "All American Federation of Labor boycotts are observed."

COLORADO.

Pueblo. Organizer reports: "We observe all American Federation of Labor boycotts."

CONNECTICUT.

Meriden. Organizer reports: "All American Federation of Labor boycotts are observed."
Norwich. Organizer reports: "All boycotts are observed."
Thompsonville. Organizer reports: "All American Federation of Labor boycotts are observed."

ILLINOIS.

Alton. Organizer reports: "All American Federation of Labor boycotts are observed."

IOWA.

Des Monies. Organizer reports: "All American Federation of Labor boycotts are pushed."

KANSAS.

Fort Scott. Organizer reports: "We are pushing all American Federation of Labor boycotts as far as possible."

MICHIGAN.

Benton Harbor. Organizer reports: "All American Federation of Labor boycotts are pushed."

MISSOURI.

Higginsville. Organizer reports: "We are pushing the boycott against the McKinney Bread Co."

NEBRASKA.

Lincoln. Organizer reports: "We are pushing all American Federation of Labor boycotts."

NEW YORK.

Norwich. Organizer reports: "All American Federation of Labor boycotts are pushed."

OHIO.

Ashtabula. Organizer reports: "All American Federation of Labor boycotts are strenuously pushed."

East Liverpool. Organizer reports: "We notify all merchants of unfair goods and we are pushing all American Federation of Labor boycotts."

PENNSYLVANIA.

Franklin. Organizer reports: "We are pushing the boycotts against all unfair cigars, also against all other unfair goods."

Plymouth. Organizer reports: "We are pushing the boycott against the National Biscuit Co."

Williamsport. Organizer reports: "All American Federation of Labor boycotts are advertised in the local papers."

[Extract from Report of the Proceedings of the Twenty-sixth Annual Convention of the American Federation of Labor, 1906, pp. 83, 84, and 85.]

CONVENTION PROCEEDINGS, 1881–1905, REPRINTED.

Upon your authority we have had reprinted and bound 400 complete volumes of the official proceedings of the convention of the American Federation of Labor since its formation in 1881. We have set the price of the complete sets at $15. This will about cover the cost of the reprinting, binding, mailing, or expressage.

"WE-DON'T-PATRONIZE" LIST.

Applications to place the following firms upon the unfair list of the American Federation of Labor have been made to and approved by the executive council from October 1, 1905, to October 1, 1906:

American Hoist & Derrick Co., St. Paul, Minn. (International Brotherhood of Blacksmiths.)

American Iron & Steel Co. Works, Lebanon and Reading, Pa. (Amalgamated Association of Iron, Steel and Tin Workers.)

Corning Brick, Tile & Terra Cotta Co., Corning, N. Y. (International Brick, Tile and Terra Cotta Workers' Alliance.)

J. L. Frost Paper Co., Norwood, N. Y. (United Brotherhood of Paper Makers.)

Far West Lumber Co., Tacoma, Wash. (International Shingle Weavers' Union of America.)

Finch Distilling Co., Pittsburgh, Pa. (Coopers' International Union of North America.)

Grays Harbor Commercial Co., Cosmopolis, Wash. (International Shingle Weavers' Union of America.)

Gleeson, Thomas E., Newark, N.J. (American Wire Weavers' Protective Association.)
Hutton Brick Co., Kingston, N. Y. (International Brick, Tile and Terra Cotta Workers' Alliance.)
Ideal Manufacturing Co., Detroit, Mich. (Metal Polishers, Buffers, Platers and Brass Workers' International Union of North America.)
Kern Barber Supply Co., St. Louis, Mo. (International Association of Machinists.)
Lindsay Wire Weaving Co., Collinwood, Ohio. (American Wire Weavers' Protective Association.)
Mockett, J. N., Toledo, Ohio. (Retail Clerks' International Protective Association.)
New York Knife Co., Walden, N. Y. (Pocket Knife Blade Grinders and Finishers' National Union.)
Peckham Manufacturing Co., Kingston, N. Y. (International Brotherhood of Blacksmiths.)
Philadelphia Inquirer. (International Typographical Union.)
Portland Peninsular Cement Co., Jackson, Mich. (Federal Labor Union No. 11761, Cement City, Mich.)
Raymondville Paper Co., Raymondville, N. Y. (United Brotherhood of Paper Makers.)
Redding Hotel, Wilkes-Barre, Pa. (Brotherhood of Painters, Decorators and Paper Hangers of America.)
St. Paul & Tacoma Lumber Co., Tacoma, Wash. (International Shingle Weavers' Union of America.)
T. Zurbrugg Watch Case Co., Riverside, N. J. (Watch Case Engravers' International Association of America.)

DROPPED WITHOUT NOTICE.

Art Metal Construction Co., Jamestown, N. Y.
American Hardware Co., New Britain, Conn. (P. & F. Corbin-Russell & Erwin Co.)
American Circular Loom Co., New Orange, N. J.
Atlas Tack Co., Fairhaven, Mass.
Brumby Chair Co., Marietta, Ga.
Crescent Curvoirseer Wilcox Co., Newark, N. J.
Columbus Buggy & Harness Co., Columbus, Ohio.
Davenport Pearl Button Co., Davenport, Iowa.
Diamond Rubber Co., Akron, Ohio.
William Demuth & Co., New York City.
B. F. Goodrich Rubber Co., Akron, Ohio.
Harbison & Walker Refractory Co., Pittsburgh, Pa.
Himmelberger-Harrison Lumber Co., Morehouse, Mo.
Iver Johnson Arms Co., Fitchburg, Mass.
Kokomo Rubber Co., Kokomo, Ind.
Lehmaier-Swartz & Co., New York City.
Merrimac Manufacturing Co., Lowell, Mass.
Novelty Advertising Co., Coshocton, Ohio.
National Elevator & Machine Co., Honesdale, Pa.
Northwestern Cooperage & Lumber Co., Ohio and Michigan.
Palmer Manufacturing Co., Poplar Bluff, Mo.
Page Needle Co., Chicopee Falls, N. H.
Russell Manufacturing Co., Middletown, Conn.
J. N. Roberts Co., Metropolis, Ill.
F. N. Rowell & Co., Batavia, N. Y.
St. Johns Table Co., St. Johns, Mich.
Sattley Manufacturing Co., Springfield, Ill.
Terre Haute Gazette, Terre Haute, Ind.
Trinity County Lumber Co., Groveton, Tex.
Underwood Typewriter Co., Hartford, Conn.
Union Lumber Co., Fort Bragg, Cal.
William Cooperage Co., Poplar Bluff, Mo.
Williams Basket Manufacturing Co., Northampton, Mass.
H. B. Wiggins Sons Co., Bloomfield, N. J.

Fraternally submitted.

SAMUEL GOMPERS, DANIEL J. KEEFE,
JAMES DUNCAN, WM. D. HUBER,
JOHN MITCHELL, JOS. F. VALENTINE,
JAMES O'CONNELL, FRANK MORRISON,
MAX MORRIS, JOHN B. LENNON,
D. A. HAYES,

Executive Council American Federation of Labor.

[Extract from Report of the Proceedings of the Twenty-fifth Annual Convention of the American Federation of Labor, 1905, pp. 79, 80, and 81.]

CONVENTION PROCEEDINGS REPRINTED, ETC.

There is a constantly increasing demand made upon the American Federation of Labor for fuller information regarding the work of the trade-union movement and its achievements. These it has been our purpose to give to the fullest by the publication not only of the American Federationist, our pamphlets, leaflets, etc., but by every other means at our disposal. So, too, has grown the demand for the official printed proceedings of our conventions; owing to the lapse of time and the increasing demand for the editions of the printed proceedings our supply became exhausted. This fact was reported to the last convention and the authority was given for a reprint. We beg to report that the official proceedings of the conventions of our federation, since its formation in this city in 1881 up to and including 1900, have been reprinted. We now have 400 complete files up to date and recommend that the executive council be authorized to set a moderate price for their sale. These proceedings have not only a very great value to our movement and to thinkers and observers to-day, but must of necessity have a constantly increasing value to the men of our movement and others of the future.

"WE-DON'T-PATRONIZE" LIST.

Applications to place the following firms upon the unfair list of the American Federation of Labor have been made and approved by the executive council from October 1, 1904, to October 1, 1905:

Boorum & Pease Co., Brooklyn, N. Y. (International Brotherhood of Bookbinders.)

Bryan & Co., Cleveland, Ohio. (National Alliance of Bill Posters and Billers.)

J. H. Cownie Glove Co., Des Moines, Iowa. (International Glove Workers' Union of America.)

California Glove Co., Napa, Cal. (International Glove Workers' Union of America.)

Derby Desk Co., Boston, Mass. (Amalgamated Wood Workers' International Union.)

Houston Electirc Co., Houston, Tex. (Amalgamated Association of Street and Electric Railway Employees.)

Lerch Brothers, Baltimore, Md. (United Brotherhood of Leather Workers on Horse Goods.)

Lehmaier-Swartz & Co., New York City. (Tin Foil Workers and Helpers' Union, No. 11115.)

Merritt & Co., Philadelphia, Pa. (Wood, Wire, and Metal Workers' International Union.)

Missouri, Kansas & Texas Railway Co. (Order of Railroad Telegraphers.)

Merkle-Wiley Broom Co., Paris, Ill. (International Broom Makers' Union.)

National Elevator & Machine Co., Honesdale, Pa. (International Association of Machinists.)

Pittsburgh Expanded Metal Co., Pittsburgh, Pa. (Wood, Wire, and Metal Lathers' International Union.)

Potter Wall Paper Co., Hoboken, N. J. (National Print Cutters' Association of America. National Association of Machine Printers and Color Mixers.)

C. W. Post, manufacturer of "Grape Nuts" and Postum Cereal, Battle Creek, Mich.

J. E. Tilt Shoe Co., Chicago, Ill. (Boot and Shoe Workers' Union.)

Utica Hydraulic Cement Co., Utica, Ill.; Utica Cement Manufacturing Co. (Federal Labor Union, No. 9870.)

Williams Basket Manufacturing Co., Northampton, Mass. (Basket Makers' Union, No. 11626.)

Wrought Iron Range Co., St. Louis, Mo. (Metal Polishers, Buffers, Platers, and Brass Workers' International Union of North America.)

Western Union Telegraph Co. and its messenger service, the American District Telegraph Co. (Commercial Telegraphers' Union of America.)

H. B. Wiggins Sons Co., Bloomfield, N. J. (Burlap Workers' Union, No. 11492, Orange, N. J.)

DROPPED WITHOUT NOTICE.

Ballard & Ballard Milling Co., Louisville, Ky.
Computing Scale Co., Dayton, Ohio.
Davis Sewing Machine Co., Dayton, Ohio.
Evans & Howard Fire Brick & Sewer Pipe Co., St. Louis, Mo.
Huttig Sash and Door Co., St. Louis, Mo.
Hohmann & Maurer Manufacturing Co., Rochester, N. Y.

Houston Electric Co., Houston, Tex.
Terre Haute Brick Co., Terre Haute, Ind.
Terre Haute Street Railway Co., Terre Haute, Ind.
L. E. Waterman & Co., New York City.
Fraternally submitted.

SAMUEL GOMPERS,	D. A. HAYES,
JAMES DUNCAN,	DANIEL J. KEEFE,
JOHN MITCHELL,	W. J. SPENCER,
JAMES O'CONNELL,	JOHN B. LENNON,
MAX MORRIS,	FRANK MORRISON,
THOS. I. KIDD,	

Executive Council American Federation of Labor.

[Extract from Report of Proceedings of American Federation of Labor, 1904, pp. 85, 86, and 87.]

"WE-DON'T-PATRONIZE" LIST.

Applications to place the following firms upon the unfair list of the American Federation of Labor have been made and approved by the executive council, from October 1, 1903, to October 1, 1904:

Art Metal Construction Co., Jamestown, N. Y. (Steel Cabinet Workers, No. 7294, and Japanners and Finishers, No. 9069.)

American Brewing Co., New Orleans, La. (United Brewery Workmen.)

Atchison, Topeka & Santa Fe Railroad. (Order of Railroad Telegraphers.)

Atlas Tack Co., Fairhaven, Mass. (Tack Makers' Union, No. 8557.)

American Hardware Co., New Britain, Conn. (P. R. F. Corbin-Russel & Erwin Co.) (Iron Molders' Union of North America.)

Ballard & Ballard Milling Co., Louisville, Ky. (Coopers' International Union of North America.)

Blauner Bros., New York, N. Y. (International Ladies' Garment Workers' Union.)

Bailey, Wm., & Sons, Cleveland, Ohio. (International Association of Machine Printers and Color Mixers.)

Clothiers' Exchange, Rochester, N. Y. (United Garment Workers of America.)

Chicago Corset Co., Aurora, Ill. (International Ladies' Garment Workers' Union.)

Diamond Rubber Co., Akron, Ohio. (Amalgamated Rubber Workers' Union of America.)

Demuth, Wm., & Co., New York, N. Y. (Smoking Pipe Makers' Union, No. 11402.)

Disston, Henry, & Co., Philadelphia, Pa. (Sawsmiths' National Union.)

Elgin Butter Tub Co., Elgin, Ill. (Coopers' International Union of America.)

Erie City Iron Works, Erie, Pa. (Brotherhood of Boiler Makers and Iron-ship Builders of America.)

Goodrich, B. F., Rubber Co., Akron, Ohio. (Amalgamated Rubber Workers' Union.)

Grand Rapids Furniture Manufacturers' Association, Grand Rapids, Mich. (Upholsterers' International Union of America.)

Harbison & Walker Refractory Co., Pittsburgh, Pa. (International Brick, Tile and Terra Cotta Workers' Alliance.)

Hohmann & Maurer Manufacturing Co., Rochester, N. Y. (United Metal Workers' International Union.)

Kaiser, James R., manufacturer of neckwear, New York, N. Y. (United Neck Wear Cutters' Union, No. 6939.)

Kokomo Rubber Co., Kokomo, Ind. (Almalgamated Rubber Workers' Union.)

Knox, E. M., Co., Brooklyn, N. Y. (United Hatters of North America.)

Kelley Milling Co., Kansas City, Mo. (International Union of Flour and Cereal Mill Employees.)

The David Maydole Hammer Co., Norwich, N. Y. (International Brotherhood of Blacksmiths.)

Merrimac Manufacturing Co., Lowell, Mass. (Machine Textile Printers' Association.)

Northwestern Cooperage & Lumber Co. (otherwise known as Buckeye Stave Co. of Ohio, Michigan, and Wisconsin). (Federal Labor Union No. 11213, Gladstone, Mich.)

Oneita Knitting Mills, Utica, N. Y. (United Textile Workers of America.)

People's Street Railway Co., Dayton, Ohio. (Amalgamated Association of Street and Electric Railway Employees.)

Palmer Manufacturing Co., Poplar Bluff, Mo. (Federal Labor Unions No. 10722 and No. 10723.)

Remington-Martin Paper Co., Norfolk, N. Y. (United Brotherhood of Paper Makers of America.)
Roberts, J. N., & Co., Manufacturers of Boxes, Metropolis, Ill. (Federal Labor Union No. 9280.)
St. Johns Table Co., St. Johns, Mich. (Federal Labor Union No. 11102.)
Stetson, J. B., Co., Philadelphia, Pa. (United Hatters of North America.)
Strawbridge & Clothier, Philadelphia, Pa. (International Ladies' Garment Workers' Union.)
Singer Sewing Machine Co., Elizabeth, N. J. (United Brotherhood of Carpenters and Joiners of America.)
Union Lumber Co., Fort Bragg, Cal. (Federal Labor Union No. 10917.)
Wick China Co., Kittanning, Pa. (National Brotherhood of Operative Potters.)
Washburn-Crosby Flour Milling Co., Minneapolis, Minn. (International Union Flour and Cereal Mill Employees.)
Williams Cooperage Co., Poplar Bluffs, Mo. (Federal Labor Unions No. 10722 and No. 10732.)

REMOVED FROM UNFAIR LIST AND PLACED UPON FAIR LIST.

From October 1, 1903, to October 1, 1904:
American Brewing Co., New Orleans, La. (United Brewery Workmen.)
Becker, Smith & Page, Philadelphia, Pa. (National Association Machine Printers and Color Mixers.)
Carey Bros., Philadelphia, Pa. (National Association of Machine Printers and Color Mixers.)
Franklin Needle Co., Franklin, N. H. (Needle Workers' Union No. 9988.)
Frank, S. H., & Co., Redwood City, Cal. (Amalgamated Leather Workers' Union of America.)
Mount Airy Granite Co., Mount Airy, N. C. (Granite Cutters' National Union.)
People's Street Railway Co., Dayton, Ohio. (Amalgamated Association Street and Electric Railway Employees.)
Santa Rosa Tanning Co., Santa Rosa, Cal. (Central Labor Union, Oakland.)
Winslow Bros., Chicago, Ill. (United Metal Workers' International Union.)
Wagner Leather Co., Stockton, Cal. (Amalgamated Leather Workers' Union of America.)

REMOVED FROM UNFAIR LIST.

The following firms were removed from the unfair list at the request of the unions at interest and without prejudice to the unions' position from October 1, 1903, to October 1, 1904:
Brewing Co., New Orleans, La. (United Brewery Workmen.)
Brewing Co., Security, New Orleans, La. (United Brewery Workmen.)
Brewing Co., Standard, New Orleans, La. (United Brewery Workmen.)
Genesee Hotel, Buffalo, N. Y. (International Brotherhood of Stationary Engineers.)
Herendeen Manufacturing Co., Geneva, N. Y. (Iron Molders' Union of North America.)
Janeway, Wm., & Co., New Brunswick, N. J. (National Association of Machine Printers and Color Mixers.)

SAMUEL GOMPERS,
JAMES DUNCAN,
JOHN MITCHELL,
JAMES O'CONNELL,
MAX MORRIS,
THOS. I. KIDD,
D. A. HAYES,
DANIEL J. KEEFE,
W. J. SPENCER,
JOHN B. LENNON,
FRANK MORRISON,
Executive Council.

[Extract from Report of Proceedings of American Federation of Labor, 1903, pp. 94, 95, and 96.]

"WE-DON'T-PATRONIZE" LIST.

Applications to place the following firms upon the unfair list of the American Federation of Labor have been made and approved by the Executive Council from October 1, 1902, to October 1, 1903:
American Circular Loom Co., New Orange, N. J. (Electroduct Enamelers' Union, No. 9813.)
Ayers, Henry, Philadelphia. (United Gold Beaters' National Protective Union of America.)

Bailey, S. R. & Co., Amesbury, Mass. (International Carriage and Wagon Workers.)
Becker, Smith & Page. (National Association of Machine Printers and Color Mixers of the United States.)
Brumby Chair Co., Marietta, Ga. (Federal Labor Union, No. 9267.)
Butler, James, Grocer, New York City. (Retail Clerks' International Protective Union.)
Brewing Co., Security, New Orleans, La. (International Union of United Brewery Workmen.)
Brewing Co., Standard, New Orleans, La. (International Union of United Brewery Workmen.)
Capps, J., & Sons (Ltd.), Jacksonville, Ill. (United Garment Workers of America.)
Carey Bros., Philadelphia, Pa. (Machine Printers and Color Mixers of the United States, National Association of.)
Carr, Prescott & Co., Amesbury, Mass. (International Carriage and Wagon Workers.)
Cheney-Bigelow Wire Works, Springfield, Mass. (International Union of United Metal Workers.)
Cluett-Peabody & Co., Troy, N. Y. (Shirt, Waist, and Laundry Workers' International Union.)
Columbus Buggy & Harness Co., Columbus, Ohio. (International Brotherhood of Blacksmiths.)
Crabtree & Harvey, N. Sullivan, Me. (Granite Cutters' National Union.)
Davenport Pearl Button Co., Davenport, Iowa. (Button Workers' Union, No. 8789.)
Drucker, N., & Co., Trunks, Cincinnati, Ohio. (Trunk and Bag Workers' International Union of America.)
Electrical Insulation Contracting Co., Chicago, Ill. (Laborers' Union, No. 7320, Cambridge, Ohio.)
S. H. Frank & Co., Redwood City, Cal. (Amalgamated Leather Workers' Union of America.)
Franklin Needle Co., Franklin, N. H. (Needle Workers' Union, No. 9988.)
German Stove Co., Erie, Pa. (Iron Molders' Union of North America.)
Gulf Bag Co., New Orleans, La. Branch of Bemis Bros., of St. Louis. (Central Labor Union of New Orleans.)
Goeller, M., & Sons, Circleville, Ohio. (International Broommakers' Union.)
Hartford Carpet Co., Thompsonville, Conn. (United Textile Workers of America.)
Hassett & Hodge, Amesbury, Mass. (International Carriage and Wagon Workers.)
Hastings & Co., Philadelphia, Pa. (United Gold Beaters' National Protective Union of America.)
Himmelberger-Harrison Lumber Co., Moorhouse, Md. (Federal Labor Union, No. 8399.)
Hood Rubber Co., Boston, Mass. (Rubber Workers' Union No. 8622.)
Kemp, W. H., & Co., New York City. (United Gold Beaters' National Protective Union of America.)
Krell Piano Co., Cincinnati, Ohio. (International Piano and Organ Workers' Union of America.)
Krementz & Co., Newark, N. J. (International Jewelry Workers' Union of America.
Kullman, Salz & Co., Benicia, Cal. (Amalgamated Leather Workers' Union of America.)
Lincoln Iron Works, Rutland, Vt. (International Association of Machinists.)
Meskir, George L., Evansville, Ind. (Iron Molders' Union of North America.)
Mount Airy Granite Co., Mount Airy, N. C. (Granite Cutters' National Union.)
Page Needle Co., Chicopee Falls, Mass. (Needle Workers' Union, No. 9988.)
Parry, D. M., Indianapolis, Ind. (C. L. U. and Brotherhood of Painters, Decorators and Paperhangers of America.)
Patch, P. R., Manufacturing Co., Rutland, Vt. (International Association of Machinists.)
Patrick, A. B., & Co., San Francisco, Cal. (San Francisco Labor Council.)
Payne Engine Co., Elmira, N. Y. (Central Labor Council. Indorsed by International Association of Machinists.)
Philadelphia Demokrat. (International Typographical Union.)
Railway Construction Co., Cambridge, Ohio. (Laborers' Union, No. 7320.)
Reeves, Andrew, Chicago, Ill. (United Gold Beaters' National Protective Union of America.)
Reeves, George, Cape May. (United Gold Beaters' National Protective Union of America.)
Robertson & Havey, N. Sullivan, Me. (Granite Cutters' National Union.)
Rowell, E. N., & Co., Batavia, N. Y. (Paper-box Makers' Union, No. 10249).

Russell, John, Cutlery Co., Turner Falls, Mass. (Table Knife Grinders' National Union.)
Russell Manufacturing Co., Middletown, Conn. (Suspender Workers' Union, No. 10628.)
Santa Rosa Tanning Co., Santa Rosa, Cal. (Central Labor Union of Oakland)
Scotten & Dillon, Detroit, Mich. (Tobacco Workers' International Union.)
Seagrave Manufacturing Co., Columbia, Ohio. (International Brotherhood of Blacksmiths.)
Skinner Silk Mills, Holyoke, Mass. (International Brotherhood of Stationary Firemen.)
Snellenberg, N., & Co., Philadelphia, Pa. (United Garment Workers of America.)
Stein, C. W., Pottery Co., White Cottage, Ohio. (Stoneware Potters' Union, No. 7117.)
Terre Haute Street Railway Co., Terre Haute, Ind. (Amalgamated Association of Street and Electric Employees of America.)
Taylor, Thomas & Son, Hudson, Mass. (Elastic Goring Weavers' Amalgamated Association.)
Underwood Typewriter Co., Hartford, Conn. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)
Wagner Leather Co., Stockton, Cal. (Amalgamated Leather Workers' Union of America.)
Waterman, L. E., & Co., New York City. (Gold-Pen Makers' Union No. 8030.)
Western Union Telegraph Co. (The Commercial Telegraphers' Union of America.)
Wisner (Ohio) Piano Co. (International Piano and Organ Workers' Union of America.)

REMOVED FROM UNFAIR AND PLACED UPON FAIR LIST.

American Cereal Co., Cedar Rapids, Iowa. (Coopers' International Union of America.)
Brewers' Exchange of Cincinnati, Ohio, Covington and Newport, Ky. (International Union of United Brewery Workmen.)
Chicago Freie Presse. (International Typographical Union.)
Crabtree & Harvey, North Sullivan, Me. (Granite Cutters' National Union.)
Electrical Insulation Contracting Co., Chicago. (Laborers' Union No. 7320, Cambridge, Ohio.)
Guckenheimer, A., Distilling Co., Freeport, Pa. (Coopers' International Union of America.)
Henneberry, D. A., Chicago. (International Printing Pressmen's Union.)
Hood Rubber Co., Boston, Mass. (Amalgamated Rubber Workers' Union.)
Kimball, Andrew, Bent Wood Works, Zanesville, Ohio. (Amalgamated Wood Workers' International Union.)
Knoxville Woolen Mills, Knoxville, Tenn. (F. L. U. No. 7453.)
Miller, John, & Co., Miller's Game Cock Whiskey, Boston, Mass. (Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America.)
Meek-Beach Co., Coshocton, Ohio. (F. L. U. No. 8170.)
Railway Construction Co., Cambridge, Ohio. (Laborers' Union No. 7320.)
Robertson & Havey, North Sullivan, Me. (Granite Cutters' National.)
St. Louis Cooperage Co., St. Louis. (Coopers' International Union of America.)
Scotten & Dillon, Detroit, Mich. (Tobacco Workers' International Union of America.)
Seagrave Manufacturing Co., Columbus, Ohio. (International Brotherhood of Blacksmiths.)
Skinner Silk Mills, Holyoke, Mass. (International Brotherhood of Stationary Firemen.)
Southern Saddlery Co., Chattanooga, Tenn. (United Brotherhood of Leather Workers on Horse Goods.)

Yours, fraternally,

SAMUEL GOMPERS, *President*,
JAMES DUNCAN, *First Vice President*,
JOHN MITCHELL, *Second Vice President*,
JAMES O'CONNELL, *Third Vice President*,
MAX MORRIS, *Fourth Vice President*,
THOS. I. KIDD, *Fifth Vice President*,
D. A. HAYES, *Sixth Vice President*,
JOHN B. LENNON, *Treasurer*,
FRANK MORRISON, *Secretary*,
Executive Council, American Federation of Labor.

[Extract from Report of Proceedings of American Federation of Labor, 1902, pp. 59, 60, and 61.]

Applications to place the following concerns upon the unfair list of the American Federation of Labor have been made and approved by the executive council from November 1, 1901, to October 1, 1902:

"WE-DON'T-PATRONIZE" LIST.

Brewers' Exchange, Cincinnati, Ohio, and Covington and Newport, Ky. (National Union of United Brewery Workers.)

Brown & Sharpe Tool Co., Providence, R. I.

Brown Manufacturing Co., Zanesville, Ohio. (International Association of Allied Metal Mechanics.)

Casey & Hedges, Chattanooga, Tenn. (Brotherhood of Boiler Makers and Iron Ship Builders.)

W. B. Conkey Co., Hammond, Ind. (International Printing Pressmen's Union.)

Crane & Breed, Cincinnatt, Ohio. (International Wood Carvers' Association of North America.)

Donahue & Henneberry, Chicago, Ill. (International Printing Pressmen's Union.)

Evans & Howard Fire Brick and Sewer Pipe Co., St. Louis, Mo. (International Brick, Tile, and Terra Cotta Workers' Alliance.)

Gurney Foundry Co., Toronto, Canada. (Stove Mounters' International Union.)

D. A. Henneberry, Chicago, Ill. (International Printing Pressmen's Union.)

Hudson & Kimberly, Kansas City, Mo. (International Brotherhood of Bookbinders.)

Iver Johnson Arms Co., Fitchburg, Mass. (Metal Polishers, Buffers, Platers and Brass Workers' Union of North America.)

Jamestown Street Railway Co., Jamestown, N. Y. (Amalgamated Association of Street Railway Employees of America.)

Kelsey Furnace Co., Syracuse, N. Y. (Amalgamated Sheet Metal Workers' International Association.)

Meek, Beach & Co., Coshocton, Ohio. (Federal Labor Union No. 8170.)

John Miller & Co., "Miller's Game Cock Whiskey," Boston, Mass. (Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America.)

Narragansett Bay Oyster Co., Providence, R. I. (Oystermen's Union, No. 8665.)

National Biscuit Co., Chicago, Ill. (Journeymen Bakers and Confectioners' International.)

National Cash Register Co., Dayton, Ohio. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)

Novelty Advertising Co., Coshocton, Ohio. (Federal Labor Union No. 8170.)

Philadelphia Bulletin, Philadelphia, Pa. (International Printing Pressmen's Union.)

Henry H. Roelofs & Co., Philadelphia, Pa. (United Hatters of North America.)

Sattley Manufacturing Co., Springfield, Ill. (Plow Workers' Union No. 9640.)

Singer Sewing Machine Co., Elizabeth, N. J. (Sewing Machine Builders' Union, No. 7424.)

Singer Sewing Machine Co., South Bend, Ind. (Federal Labor Union, No. 7106.)

Times, Los Angeles, Cal. (International Typographical Union.)

Van Zandt, Jacobs & Co., Troy, N. Y. (Shirt, Waist, and Laundry Workers' International Union.)

Wellman, Osborne & Co., Lynn, Mass. (Retail Clerks' International Protective Association.)

REMOVED FROM THE UNFAIR LIST.

The Scranton convention decided that organizations should be entitled to have no more than three firms placed upon the unfair list of the American Federation of Labor at any one time. The unions in interest were communicated with, and at their request the following firms were dropped from the unfair list.

Jacob Beck & Sons, Detroit, Mich. (Coopers' International Union of North America.)

Burden Iron Co., Troy, N. Y. (Coopers' International Union of North America.)

Chambers Bros. Co., Philadelpiha, Pa. (International Association of Machinists.)

W. B. Conky, Hammond, Ind. (International Typographical Union.)

The Daheim, Chicago, Ill. (International Typographical Union.)

Donahue & Henneberry, Chicago, Ill. (International Typographical Union.)

Goodell Cutlery Co., Antrim, N. H. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)

Hamilton Manufacturing Co., Two Rivers, Wis. (Amalgamated Wood Workers' International Union of North America.)
L. & P. Holmes Machinery Co., Buffalo, N. Y. (International Association of Machinists.)
Hudson & Kimberly, Kansas City, Mo. (International Typographical Union.)
Kahn Stove Works, Hamilton, Ohio. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)
Litchfield Brick Co., Litchfield, Ill. (International Brick, Tile, and Terra Cotta Workers' Alliance.)
McSherry Co., Middletown, Ohio. (Iron Molders' Union of North America.)
Oliver Bros., Lockport, N. Y. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)
Parkersburg Sentinel, Parkersburg, W. Va. (International Typographical Union.)
Philadelphia Demokrat and Central Newspaper Union. (International Union.) (International Typographical Union.)
Reichert Milling Co., Freeburg, Ill. (Coopers' International Union of North America.)
T. Zurbrugg Watchcase Co., Riverside, N. J. (International Association of Watchcase Engravers.)

REMOVED FROM UNFAIR LIST.

The following firms were removed from the unfair list at the request of the unions in interest and with prejudice to the unions' position:
Brazil Hotel, Buffalo, N. Y. (International Brotherhood of Stationary Firemen.)
Feister Printing Co., Philadelphia, Pa. (International Printing Pressmen's Union.)
Jos. Fowler Shirt Co., Glens Falls, N. Y. (Shirt, Waist, and Laundry Workers' International Union.)
Hamilton-Brown Shoe Co., St. Louis, Mo. (Boot and Shoe Workers' Union.)
Riverside Cotton Mills, Danville, Va. (United Textile Workers of America.)
Van Camp Packing Co., Indianapolis, Ind. (Central Labor Union.)
Detroit Screw Works. (International Association of Allied Metal Mechanics.)
Eclipse Stove Co., Mansfield, Ohio. (Stove Mounters' National Union.)
Wayne County Preserving Co., Newark, N. Y. (Federal Labor Union No. 8812.)
Western Electric Co., Chicago, Ill. (International Association of Machinists.)
Rice & Hutchins, Marlboro, Mass. (Boot and Shoe Workers' Union.)
The following firms were removed from the unfair list by reason of the disbandment of the unions making the original application:
American Radiator Co., Buffalo, N. Y. (Machine and Iron Workers' Union No. 8016.)
American Radiator Co., St. Louis, Mo. (Radiator Molders' Union No. 8604.)
Defiance Box Co., Defiance, Ohio. (Federal Labor Union No. 9088, Ullin, Ill.)
Le Fever Arms Co., gun factory, Syracuse, N. Y. (Gun Workers' Union No. 9098.)
Moench & Son, Cattaraugus, N. Y. (Leather Buffers' Union No. 8460.)
Moench, Fisher & Son, Tonawanda, N. Y. (Leather Buffers' Union No. 8470.)
Mount Vernon Car Manufacturing Co., Mount Vernon, Ill. (Federal Labor Union No. 7358.)
Schoelkpoh & Co., Buffalo, N. Y. (Tanners and Curriers' Union No. 7480.)
Watt Mining Car Wheel Co., Barnesville, Ohio. (Federal Labor Union No. 8347.)

Fraternally, yours,

SAMUEL GOMPERS, *President.*
FRANK MORRISON, *Secretary.*
JOHN B. LENNON, *Treasurer.*
JAMES DUNCAN, *First Vice President.*
JOHN MITCHELL, *Second Vice President.*
JAMES O'CONNELL, *Third Vice President.*
MAX MORRIS, *Fourth Vice President.*
THOS. I. KIDD, *Fifth Vice President.*
D. A. HAYES, *Sixth Vice President.*

[Extract from Report of Proceedings of American Federation of Labor, 1901, pp. 168, 169, and 170.]

Applications to place the following concerns upon the unfair list of the American Federation of Labor have been made and approved by the executive council from November 1, 1900, to November 1, 1901:

"WE-DON'T-PATRONIZE" LIST.

American Billiard Table Co., Cincinnati, Ohio. (Amalgamated Woodworkers' International Union.)

American Radiator Co., St. Louis, Mo. (Radiator Molders' Union No. 8604.)
Belleville Stove Works, Belleville, Ill. (Stove Mounters' International Union.)
Black & Germer Co., Erie, Pa. (Iron Molders' Union.)
Brazil Hotel, Buffalo, N. Y. (International Brotherhood of Stationary Firemen.)
Cincinnati Cooperage Co. (Coopers' International Union.)
W. B. Conkey Co., Hammond, Ind. (International Typographical Union.)
Computing Scale Co., Dayton, Ohio. (International Association of Allied Metal Mechanics.)
Crescent Courvoirseer Wilcox Co. (International Association of Watchcase Engravers.)
Carborundum Co., Niagara Falls, N. Y. (Central Labor Council in behalf of Federal Labor Union No. 7479.)
Jacob Dold Packing Co., Buffalo, Kansas City, and Wichita. (Amalgamated Meat Cutters and Butcher Workmen.)
Donahue & Henneberry, Chicago, Ill. (International Typographical Union.)
The Daheim (Chicago Freie Presse), Chicago, Ill. (International Typographical Union.)
H. P. Deuscher Co., Hamilton, Ohio. (Iron Molders' Union.)
Davis Manufacturing Co., Dayton, Ohio. (International Association of Allied Metal Mechanics.)
Davidson Pump Co., Brooklyn, N. Y. (International Association of Machinists.)
Defiance Box Co., Defiance, Ohio. (Federal Labor Union No. 9088.)
Eclipse Stove Co., Mansfield, Ohio. (Stove Mounters' International Union.)
Feister Printing Co., Philadelphia, Pa. (International Printing Pressmen's Union.)
Joseph Fowler Shirt Co., Glens Falls, N. Y. (Shirt, Waist, and Laundry Workers' International Union.)
Jos. Fahy & Wadsworth Watch Case Co. (Watch Case Engravers' International Association.)
Goodell Cutlery Co., Antrim, N. H. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)
Genesee Hotel, Buffalo, N. Y. (International Brotherhood of Stationary Firemen.)
Hamilton Manufacturing Co., Two Rivers, Wis. (Amalgamated Woodworkers' International Union.)
George M. Hill Co., Chicago, Ill. (International Brotherhood of Bookbinders.)
The Hauser, Brenner & Fath Cooperage Co., St. Louis, Mo. (Coopers' International Union.)
Herendeen Manufacturing Co., Geneva, N. Y. (Iron Molders' Union.)
Huttig Sash & Door Co., St. Louis, Mo. (Woodworkers' International Union.)
Andrew Kimble Bent Wood Works, Zanesville, Ohio. (Central Labor Union and Woodworkers' International Union.)
Kerbs, Wertheim & Schiffer, New York, N. Y. (Cigarmakers' International Union.)
Kahn Stove Works, Hamilton, Ohio. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)
Litchfield Brick Co., Litchfield, Ill. (Brickmakers' National Alliance.)
The Lee Broom & Duster Co., Davenport, Iowa. (International Broom Makers.)
Landis, Frey & Clark Atlas Works, New Britain, Conn. (The Knife Grinders' National Union.)
Lovell & Buffington Tobacco Co., Covington, Ky. (Tobacco Workers' International Union.)
Le Ferer Arms Co., gun factory, Syracuse, N. Y. (Gun Workers' Union No. 9088.)
Morley Bros. Saddlery Co., Chicago, Ill. (United Brotherhood of Leather Workers on Horse Goods.)
Mount Vernon Car Manufacturing Co., Mount Vernon, Ill. (Federal Labor Union No. 7358.)
Marshall & Ball, Newark, N. J. (Retail Clerk's International Protective Association.)
Moench & Son, Cattaraugus, N. Y. (Leather Buffers' Union No. 8470.)
Moench, Fisher & Son, Tonawanda, N. Y.
Tom Moore and Henry George Cigars. (Cigarmakers' International Union.)
Peter McCourt Theatrical Circuit, Denver, Colo. (American Federation of Musicians.)
McKinney Bread Co., St. Louis, Mo. (Journeymen Bakers' and Confectioners' International Union.)
McSherry Co., Middletown, Ohio. (Iron Molders' Union.)
New York Sun, New York. (International Typographical Union.)
J. B. Owens Pottery Co., Zanesville, Ohio. (Central Labor Union.)

Oliver Bros., Lockport, N. Y. (Metal Polishers, Buffers, Platers, and Brass Workers' Union of North America.)
Philadelphia Demokrat. (International Typographical Union.)
Thomas G. Plant, Roxbury, Mass. (Boot and Shoe Workers' Union.)
Parkersburg Sentinel, Parkersburg, W. Va. (International Typographical Union.)
Riverside Cotton Mills, Danville, Va. (International Union of Textile Workers.)
Reinle Bros. & Solomon, Baltimore, Md. (Woodworkers' International Union.)
Riechert Milling Co., Freeport, Ill. (Coopers' International Union.)
Schoelkpoh & Co., Buffalo, N. Y. (Tanners' and Curriers' Union No. 7480.)
St. Louis Cooperage Co., St. Louis, Mo. (Coopers' International Union.)
Schneider-Trencamp Co., Cleveland, Ohio. (International Association of Machinists.)
Terre Haute Brick & Pipe Co., Terre Haute, Ind. (Brickmakers' National Alliance.)
Terre Haute Gazette, Terre Haute, Ind. (International Typographical Union.)
United Shirt & Collar Co. (Shirt, Waist, and Laundry Workers' International Union.)
Van Camp Packing Co., Indianapolis, Ind. (Central Labor Union.)
Winslow Bros., Chicago, Ill. (Metal Workers.)
Western Electric Co., Chicago, Ill. (International Association of Machinists.)
Watt Mining Car-Wheel Co., Barnesville, Ohio. (Federal Labor Union No. 8347.)
The Whittimore Co., Boston, Mass. (Glass Blowers' Association.)
Wayne County Preserving Co., Newark, N. J. (Federal Labor Union No. 8812.)
T. Zurbrugg, Riverside, N. J. (International Association of Watch Case Engravers.)

REMOVED FROM UNFAIR LIST.

Removed from unfair list from November 1, 1900, to November 1, 1901:
Belleville Stove Works, Belleville, Ill. (Stove Mounters' International Union.)
Cameron Mill Elevator Co., Fort Worth, Tex. (Flour Mill Workers' Union No. 7538.)
Cudahy Packing Co., Cudahy, Wis. (Amalgamated Meat Cutters and Butcher Workmen.)
F. X. Ganter, Baltimore, Md. (Amalgamated Woodworkers' International Union.)
The Hauser Bremen & Fath Cooperage Co., St. Louis, Mo. (Coopers' International Union.)
Hall & Co., Worsted Mills, Jamestown, N. Y. (International Textile Workers.)
Abe Kirschbaum & Co., Philadelphia, Pa. (United Garment Workers.)
Morley Bros. Saddlery Co., Chicago, Ill. (United Brotherhood of Leatherworkers on Horse Goods.)
Marshall & Ball Co., Newark, N. J. (Retail Clerks' International Protective Association.)
Providence Telegram, Providence, R. I. (International Typographical Union.)
Peabody Coal Co., Chicago, Ill. (Team Drivers' International Union.)
Thomas G. Plant, Roxbury, Mass. (Boot and Shoe Workers.)
Reliance Milling Co., Murphysboro, Ill. (Flour Mill Workers' Union No. 8036.)
Swift Packing Co. (Amalgamated Meat Cutters and Butcher Workmen.)
E. B. Townsend Brick Co., Zanesville, Ohio. (Central Labor Union.)

SAMUEL GOMPERS, *President.*
JAMES DUNCAN, *First Vice President.*
JOHN MITCHELL, *Second Vice President.*
JAMES O'CONNELL, *Third Vice President.*
MAX MORRIS, *Fourth Vice President.*
THOS. I. KIDD, *Fifth Vice President.*
D. A. HAYES, *Sixth Vice President.*
JOHN B. LENNON, *Treasurer.*
FRANK MORRISON, *Secretary.*

[Extract from Report of Proceedings of the American Federation of Labor, 1900, pp. 73, 74, and 75.]

"UNFAIR LIST."

The executive council approved the applications to place the following-named concerns upon the "We-don't-patronize" list of the American Federation of Labor, and the same are submitted for the indorsement of this convention:
American Cereal Co., Cedar Rapids, Iowa. (Coopers' International Union.)
American and Continental Tobacco Cos. (Tobacco Workers' International Union.)
American Radiator Co., Buffalo, N. Y. (Machine and Iron Workers' Union No. 8016.)

The Burden Iron Co., Troy, N. Y. (Coopers' International Union.)
J. V. Blow & Co., Central City, Ky. (Federal Labor Union No. 7390.)
Jacob Beck & Sons, Detroit, Mich. (Central Trades and Labor Council.)
Cameron Mill and Elevator Co., Fort Worth, Tex.
Chambers Bros. Co., Philadelphia, Pa. (International Association of Machinists.)
Cudahy Co., Cudahy, Wis. (Amalgamated Meat Cutters and Butcher Workmen.)
Dickerson Hard Rubber Co., Springfield, Mass. (Composition Pressmen's Union No. 7512.)
Detroit Screw Works, Detroit, Mich. (International Association of Allied Metal Mechanics.)
Chicago Freie Presse, Chicago. (International Typographical Union.)
Feister Printing Co., Philadelphia, Pa. (International Printing Pressmen's Union.)
Holmes Machinery Co., Buffalo, N. Y. (International Association of Machinists.)
Hamilton Manufacturing Co., Two Rivers, Wis. (Amalgamated Wood Workers' International Union.)
Hudson, Kimberly & Co., Kansas City, Mo. (International Typographical Union.)
Hamilton-Brown Shoe Co., St. Louis, Mo. (Boot and Shoe Workers' Union.)
R. Henkel, Detroit, Mich. (Coopers' International Union.)
Illinois Iron & Bolt Co., Carpentersville, Ill. (Chicago Federation of Labor and Elgin Trades Council.)
Knoxville Woolen Mills, Knoxville, Tenn. (Federal Labor Union No. 7453.)
Kingan Packing Co., Indianapolis, Ind.
Keystone Watch Case Co., Philadelphia, Pa. (International Association of Watch Case Engravers.)
Laub & Son, Buffalo, N. Y. (Tanners and Curriers' Union No. 7480.)
Moreley Bros. Saddlery Co., Chicago. (United Brotherhood of Leather Workers on Horse Goods.)
Mount Vernon Car Manufacturing Co., Mount Vernon, Ill. (Federal Labor Union No. 7358.)
Northwestern Terra Cotta Co., Chicago. (Brickmakers' National Alliance.)
The New York Sun, New York City. (International Typographical Union.)
Pope Manufacturing Co., Hartford, Conn. (International Typographical Union.)
Rock Island Plow Works, Rock Island, Ill. (United Brotherhood of Carpenters and Joiners.)
Rice & Hutchins, Marlboro, Mass. (Boot and Shoe Workers' Union.)
David Scott, Detroit, Mich. (Coopers' International Union.)
Southern Saddlery Co., Chattanooga, Tenn. (United Brotherhood of Leather Workers on Horse Goods.)
Swift Packing Co., Chicago, Kansas City, East St. Louis, St. Joseph, Somerville, South Omaha, and St. Paul. (Coopers' International Union and Amalgamated Meat Cutters and Butcher Workmen.)
T. B. Townsend Brick Co., Zanesville, Ohio. (Trades and Labor Council.)
Providence Telegram, Providence, R. I. (International Typographical Union.)
Trinity River Lumber Co., Leonidas, Tex. (Federal Labor Union No. 8266.)
Carl Upman, New York City. (Cigar Makers' International Union.)
Van Camp Packing Co., Indianapolis, Ind. (Central Labor Union.)

The following firms, upon the request of the unions interested, have been taken off the unfair list:

Askew Saddlery Co., Kansas City, Mo. (Unitted Brotherhood of Leather Workers on Horse Goods.)
Aluminum Stopper Co., Baltimore, Md. (International Association of Machinists.)
Charles H. Bushby. McSherrytown, Pa.
Banner-Milling Co., Buffalo, N. Y. (Coopers' International Union.)
Browning, King & Co., New York, N. Y. (United Garment Workers.)
Basshor & Co., Baltimore, Md. (Brotherhood of Boiler Makers and Iron Ship Builders.)
Carr-Lowry Glass Co., Baltimore, Md. (American Flint Glass Workers.)
Jacob Dold Packing Co., Buffalo, N. Y. (Coopers' International Union.)
Elevator Milling Co., Springfield, Ill. (Illinois State Branch of Labor.)
Farr & Trefts, Buffalo, N. Y. (Brotherhood of Boiler Makers and Iron Ship Builders.)
Fowler Packing Co., Kansas City, Kans. (Boiler Makers and Iron Ship Builders.)
E. F. Glor Cooperage Co., Buffalo, N. Y. (Coopers' International Union.)
John Griffin Cooperage Co., Buffalo, N. Y. (Coopers' International Union.)
F. X. Ganter, Baltimore, Md. (Amalgamated Wood Workers' International Union.)
Abe Kirschbaum R. Co., Philadelphia, Pa. (United Garment Workers.)
Larkin Soap Workers, Buffalo, N. Y. (Brotherhood of Boiler Makers and Iron Ship Builders.)
Studebaker Bros. Manufacturing Co., South Bend, Ind. (United Brotherhood of Leather Workers on Horse Goods.)

Union Dry Dock Co., Buffalo, N. Y. (Brotherhood of Boiler Makers and Iron Ship Builders.)

Mosely & Motley Milling Co., Rochester, N. Y. (Coopers' International Union.)

Fraternally,

SAMUEL GOMPERS,	MAX MORRIS,
JAMES DUNCAN,	THOMAS I. KIDD,
JAMES O'CONNELL,	JOHN B. LENNON,
JOHN MITCHELL,	FRANK MORRISON,
	Executive Council.

[Extract from the Report of Proceedings of the Convention of the American Federation of Labor for the year 1899, pp. 57, 58, and 59.]

The last convention approved the following:

"Inasmuch as the continuous and overwhelming flood of boycott circulars sent to local unions indiscriminately, without authority of the American Federation of Labor, leads to confusion and ineffectiveness in pushing unfair firms to settlement on union terms: Therefore be it

"*Resolved*, That we disapprove of any local, national, or international union sending out any circular calling for a boycott unless the same is first indorsed by the American Federation of Labor, and in case a boycott circular is sent out without such indorsement, the executive council will feel fustified in refusing to sustain the boycott."

Our experience has demonstrated that this resolution has not had the desired effect. By the method already employed—that is, the application by the aggrieved organization being made to headquarters, and investigation and effort at adjustment—a large number of firms have been brought into agreement with the organization in interest. A much larger number of adjustments have been secured by this process than have been accomplished by the placing of unfair firms upon the boycott list.

The following firms have, after due investigation and effort at adjustment, been placed upon our unfair list:

Moseley & Motley Milling Co., Rochester, N. Y. (By Coopers' International Union.)

Fowler Packing Co., Kansas City, Kans. (By Coopers' International Union.)

Liggett & Myers, Drummond.

John Finzer & Bro., Luhrman & Wilbern (Polar Bear), Gradle & Stortz. (By Tobacco Workers' National Union.)

Rice & Hutchins, S. H. Howe, John O'Connel & Son, and John A. Frye, Marlboro, Mass. (By Boot and Shoe Workers' Union.)

F. X. Ganter, bar and office fixtures, Baltimore, Md. (By Amalgamated Wood Workers' National Union.)

Illinois Broom Co. (By Broom Makers' International Union.)

Lee Broom Co., Davenport, Iowa. (By Broom Makers' International Union.)

Owens Pottery Co., Zanesville, Ohio. (By Central Labor Union, Zanesville, Ohio.)

T. B. Townsend Brick & Contracting Co., Zanesville, Ohio. (By Brickmakers' National Alliance.)

P. H. Binz, monumental worker, Cleveland, Ohio. (By Granite Cutters' National Union.)

Illinois Iron & Bolt Co., wagon skeins, anvils, jackscrews, letter presses, and press stands, Carpentersville, Ill. (By Federal Labor Union No. 7241.)

E. & F. Glor Cooperage Co., Buffalo, N. Y. (By Coopers' International Union.)

Phillip Spaeter Cooperage Co., Philadelphia, Pa. (By Coopers' International Union.)

Andrew Kimble, carriage and wagon gear, Zanesville, Ohio. (By Carriage and Wagon Makers' International Union.)

Moench & Sons Co., tanners, Alpena, Mich. (By Tanners' Protective Union No. 7196.)

Landers, Frary & Clark, New Britain, Conn. (By Table Knife Grinders' National Union.)

Henry Roelefs & Co., Philadelphia, Pa.

The following firms are now upon the unfair list:

Bakers.—American Biscuit Co., United States Baking Co.

Millers.—Jacob Beck & Son, Pearl Wheat and Breakfast Flake.

Manufacturers.—Detroit, Mich. Moseley & Motley Milling Co., Rochester, N. Y.; Geo. P. Plant Milling Co.; Elevator Milling Co., Springfield, Ill.

Butchers.—Geo. Fowler Packing Co., Kansas City, Kans.; Swift Packing Co. of Chicago, Ill.; Kansas City, Kans.; East St. Louis, Ill.; St. Paul, Minn., and Omaha, Nebr.

Brewers.—Cincinnati Brewing Co., Hamilton, Ohio., Geo. Ehret, New York, N. Y.; Balz Brewing Co., Philadelphia, Pa.

Cigars.—Banner Cigar Co., Brown Bros. Cigar Co., H. Deitz Cigar Co., Gordon Cigar Co., Goss & Co., Harrington & Onelette Cigar Co., Detroit Cigar Co., Moeb's Cigar Co., Wm. Tegge Cigar Co., all of Detroit, Mich.; Eithel & Casselbohnn, Hetterman Bros. Co., Louisville, Ky.; Hirshborn, Mack & Co., New Brunswick, N. J.; Bondy & Ledederar, Kerbs, Wertheim & Schiffer, S. Ottenberg Bros., Powell, Smith & Co., Karl Upman, New York, N. Y.; S. F. Hees & Co., Rochester. N. Y.; Charles H. Busbey, McSherrytown, Pa.; Yocum Bros., Reading, Pa.

Tobacco.—Ligget & Myers, Drummond, John Finzer & Bro., Luhrman & Wilbern (Polar Bear), Gradle & Storts, Brown Tobacco Co., of St. Louis, Mo. American Tobacco Co.: Plug Tobacco—Battle Ax, Newsboy, Piper Heidseck, Something Good, Pedro; Smoking Tobacco—Gail and Ax, Navy, Honest Long Cut, Duke's Mixture, Seal of North Carolina, Ivanhoe, Greenback; Cigarettes—Duke's Cameo, Sweet Caporal, Cycle, Old Judge.

Chewing gum.—Grove Co., of Salem, Ohio. Brands—Pepsin, Jersey Fruit, and Fruit Flavors.

Tailors.—Mock, Berdan & Co., of Cincinnati, Ohio; Clothiers Exchange of Rochester, N. Y.

Shoemakers.—Rice & Hutchins, S. H. Howe, John O'Connell & Son, John Frye, of Marlboro, Mass.; Hamilton Brown Shoe Co., of St. Louis, Mo.; Dugan & Hudson of Rochester, N. Y.

Elastic goring.—Woodward's of Abington, Mass.

Furniture.—F. X. Ganter's, bar and office fixtures, Baltimore, Md.; Chair and Furniture Co., and the Royal Mantel Furniture Co., of Rockford, Ill.; School Seat Co., of Grand Rapids, Mich.

Beds and Bedding.—O'Brien Bros. and the Spring Bed Co., of Chicago, Ill.; Berger Bedding Co., A. Weigel & Co., mattresses, and Kipp Bros., mattresses and spring beds, of Milwaukee, Wis.

Brooms.—Illinois Broom Co.,; Lee Broom Co., Davenport, Iowa.

Newspapers.—The Times of Los Angeles, Cal.; the Freie Presse, of Chicago, Ill.; the Pilot, Republic, and the Arena Magazine, of Boston, Mass.

Books.—Donohue & Henneberry, printers and publishers, of Chicago, Ill.; Conkey Printing Co., of Hammond, Ind.; A. V. Haight, publisher, of Poughkeepsie, N. Y.

Potters.—Monmouth Pottery Co., and the Monmouth Mining and Manufacturing Co. (sewer pipe), of Monmouth, Ill., Owens Pottery Co. of Zanesville, Ohio.

Brick.—T. C. Townsend Brick & Contracting Co., of Zanesville, Ohio.

Lime.—Cobb & Co., Perry Bros., and A. F. Crockett & Co., all of Rockland, Me.; S. E. and H. L. Shepard, of Rockport, Me.

Glass.—Plate Glass Combine, of Pittsburgh, Pa.

Stone.—Venable Bros. Quarries, of Lithonia, Ga.; P. H. Binz., monumental worker, of Cleveland, Ohio.

Stoves.—Schneider-Trenkamp Co., oil, gas and gasoline stoves (all marked "Reliable"), of Cleveland, Ohio; Fuller-Warren Stove Co., of Milwaukee, Wis.

Bicycles.—W. F. Fauber Co., one-piece bicycle crank axle; Gormully & Jeffrey Bicycle Co.; "Rambler," of Chicago, Ill.

Iron and steel.—Illinois Iron & Bolt Co., wagon skeins, anvils, jack screws, letter presses and press stands, of Carpentersville, Ill.; Burden Iron Co., rivets, nails, etc., of Troy, N. Y.; Shelby Steel Tube Co., of Elwood City, Pa.

Machinery.—Farrar & Treits, boiler, machine and steam engine works, of Buffalo, N. Y.

Patterns.—Gobeill Pattern Works, of Cleveland, Ohio.

Belting.—Boston Belting Co., of Boston, Mass.

Miscellaneous.—E. & F. Glor Co., of Buffalo, N. Y.; Philip Spaeter Cooperage Co., of Philadelphia, Pa.; Studebaker Bros. Mfg. Co., carriages and wagons, of South Bend, Ind.; Andrew Kimbel, carriage and wagon gear, of Zanesville, Ohio; Maple City Soap Works; Larkin Soap Works, of Buffalo, N. Y.; Moench & Sons Co., tanners, of Alpena, Mich.; Apsley Rubber Co., of Hudson, Mass.; Metropolitan Life Insurance Co., of New York City; Landers, Frary & Clark, New Britain, Conn.; Henry H. Roelefs & Co., Philadelphia, Pa.

In view of the fact that the we-don't-patronize list of the American Federation of Labor has grown to such large proportions, we deem it our duty to recommend that all the names of debar an organization from renewing the application and that an effort or adjustment be made before the concern can again be placed on the unfair list.

SAMUEL GOMPERS.
JOHN B. LENNON.
P. J. MCGUIRE.
JAMES DUNCAN.
JAMES O'CONNELL.
JOHN MITCHELL.
MAX MORRIS.
THOS. I. KIDD.
FRANK MORRISON.

[Extract from pp. 330, 331, and 333 of the August number of the American Federationist, 1901.]

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Official organ of the American Federation of Labor. Circulated throughout the United States, Canada, Mexico, Cuba, and Porto Rico. Goes to all affiliated national and international unions. Owned, controlled, and published by the American Federation of Labor.

Edited by Samuel Gompers, president American Federation of Labor.

Official magazine of the American Federation of Labor. Edited by Samuel Gompers, president American Federation of Labor. Bright, instructive, newsy.

Mr. DAVENPORT. I have at my command all the testimony that was taken in the Buck's Stove & Range case in which preliminary and permanent injunctions were granted. It is a book so thick [indicating]. It was all printed before the final injunction was issued. I have copies enough for all the members of this committee, the entire Judiciary Committee. It is a sociological curiosity. I would like to leave with this committee one copy and I would like to supply the other members of the committee with a copy that they may in years to come look back upon this phase of our development and see what a gigantic affair this American Federation of Labor has become, its enormous power, which by the most ingenious means can be brought to bear to crush anybody in business life, using their power to destroy which they possess. And it is these gentlemen who are asking for this legislation in order to effect those purposes. Thank God, that if you grant it, the courts of this country would say it is of no avail.

May I leave with the committee or bring up here to the committee those volumes? I presented similar volumes to Senator Clapp's committee, and he went to work and had them all bound at Government expense. The members all took them. I would like to have the committee possess them for purposes of reference.

Senator ROOT. Yes. I think we had better not have it considered as part of the hearing, however.

Mr. DAVENPORT. Oh, no.

Senator ROOT. The members of the committee individually, doubtless, would be glad to have the opportunity to examine them.

Mr. DAVENPORT. I do not know that this committee has seen the decision of the Supreme Court of the District of Columbia in the recent contempt proceedings against Mr. Gompers. It is in the Washington Law Reporter, published on the 5th of July of this year, the opinion of all the judges.

Senator NELSON. Was that the entire appellate court?

Mr. DAVENPORT. No; the court of first instance. That contains very much of the history of such kind of things as we are afraid of and against which we do not want this committee to assist in by striking down or attempting to strike down our equitable protection. I have a copy of that here.

Senator NELSON. Is it long?

Mr. DAVENPORT. Yes. The opinion is 40 pages long. I would like to leave it so that it could be examined by the committee if their other labors will ever permit them to give such an investigation of this matter as its importance requires.

Senator SUTHERLAND. That was the decision by the District Supreme Court?

Mr. DAVENPORT. Yes, sir. Justice Wright having rendered the decision and being upset, he called in his colleagues to sit with him.

Senator NELSON. How many?

Mr. DAVENPORT. There were six of them, and all were there except one, who was sick.

Senator NELSON. Did they all concur?

Mr. DAVENPORT. They all concurred. It is a very interesting opinion.

I think now that I have said all I care to say on this subject. I do not know whether that contempt bill is going to be referred to you gentlemen or not, but I would prefer a request to the committee that when it is considered I might have an opportunity to point out to them not only its invalidity but the provisions in it which are an abandonment of the positions they have heretofore taken.

Senator ROOT. The contempt bill has not been referred to any subcommittee yet. It has only just come in.

Mr. DAVENPORT. As I said, government by injunction was where the United States stepped in and got an injunction and then prosecuted the people for a violation of the injunction, without a jury, and sent them to jail. They sent Debs to jail for six months. They said, "Why, that is a criminal prosecution." In this contempt bill, as you will see when it comes over to you, they except that very class of cases. The reason they except is because it would knock the bottom out of all these trust prosecutions. After you have got a decree in a court of equity to wind up a trust, you would still have to go in court and have a jury trial to enforce. If you had to do all this you would not get very far. So they have excepted from that contempt bill the very class of cases about which the cry of "government by injunction" was first raised.

I thank you for your courtesy and attention.

Senator ROOT. Are there any others present to be heard?

Mr. HERROD. Mr. Emery, counsel for the National Association of Manufacturers, was obliged to leave the city this afternoon and said he would be out of the city to morrow. He asked me to say he would like to be heard on Thursday and Friday if the committee were going to meet on either of those days?

Senator ROOT. Mr. Moffett, will you desire to be heard?

Mr. MOFFETT. The proponents of this bill desire to begin their hearings, or their arguments, on Thursday. The understanding before recess this morning was there were to be no hearings to morrow before this committee and that it should go over until Thursday, and accordingly we have arranged to have our people here.

ARGUMENT OF HERBERT E. HERROD, ESQ., OF CLEVELAND, OHIO, ASSISTANT COMMISSIONER NATIONAL METAL TRADES ASSOCIATION.

Mr. HERROD. Mr. Chairman and Senators, I represent the National Metal Trades Association, which is composed of manufacturers in the metal trades, the membership comprising between 700 and 735 manufacturers, employing about 65,000 employees in the trades which we call within the classification of our association.

Senator NELSON. You call it metal trades?

Mr. HERROD. Metal trades, such trades as machinists, pipe fitters, structural-iron workers within the shop, carpenters, etc.

In commencing to say what I have to say upon this bill I want to preface my remarks by stating that I think we ought to be congratu-

lated to some extent on the fact that the bill which finally passed the House is not as drastic as some which were contemplated in the early stages.

I need not for this committee go into the history of the writ of injunction—men who are, perhaps, better able to do that will and have done so—further than to say that the writ of injunction is as old as the old Roman Empire, and starts with the Roman interdicts, the prohibitory interdict being analogous to our writ of injunction, and comes on down through the history of the law until we come to our temporary restraining order, interlocutory or preliminary injunctions, ending, after a hearing, with the permanent injunction.

Something has been said in these hearings as to the source of the jurisdiction, and I need not say much upon that, other than to cite the case of Ex parte Robinson (95 Wall.), where it was said that the power to punish for contempt is inherent in all courts. The moment the courts were called into existence they became possessed of this power. That is not a verbatim statement, but the sense of the citation. I think we may conclude that the source of the jurisdiction of our equity courts arises from the Constitution and the act of Congress creating them, which puts into power those inherent attributes of the court which are described in the case I have cited. The Debs case puts it very nicely. This is a quotation from the argument of counsel:

> This court has often said that equity jurisdiction of the Federal courts is such as exercised by the high court of chancery of England at the time of the adoption of the Constitution that has been conferred upon them by Congress.

And he cited Mills *v.* Cohn (150 U. S., 202).

Coming to the bill itself, section 263 has some objections which I shall try to point out to the committee. It seems to me that when a party is in court by any process whatever he should be there until the purposes of his suit have been accomplished or until the suit is dismissed. The language of this section makes it possible for a man to avoid renewed service, or service of notice after being served with a summons and copy of the bill, and thus defeat the end for which the case was started. In my judgment that is not as it should be. It does not comport with the practice as it has come down to us through the centuries, and even while a man is in court on constructive service he is at least bound for all purposes, as far as the property, if there is any property, attached or sequestered, is concerned, until the case is disposed of, and no hiding or secreting of himself can defeat the ends of justice, and it should not be possible, under any legislation that this Congress might pass, to do so.

Something has been said about the promises to the country by the administration, if we may look upon this as an administrative measure. I think that with the objection which I have cited eliminated this section 263 embodies all that the Republican platform promises the people, and when I speak of the Republican platform I am speaking from the viewpoint of the country having elected a Republican administration upon the declaration of the party. President Taft, in his message to Congress of December 7, quoted that much of the platform and based his message upon it. He said:

> The platform of 1908 says the Republican Party will uphold at all times the authority and integrity of the courts, State and Federal, and will ever insist that their power to

enforce their process and to protect life, liberty, and property shall be preserved inviolate. We believe, however, that the rules of procedure in the Federal courts with respect to the issuance of the writ of injunction should be more carefully defined by statute, and that no injunction or temporary restraining order should be issued without notice, except where irreparable injury would result from delay, in which case a speedy hearing thereafter should be granted.

The language of this section which I have pointed out also prevents a speedy hearing if the defendants are going to be permitted to evade service of second notice which may be necessary under the exigencies of the case.

Senator SUTHERLAND. You speak of certain things that should be eliminated from the proposed section 263. Just what are those?

Mr. HERROD. From line 17:

And shall be its terms expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

That portion of the section, it seems to me, puts it within the power of the defendant to have the suit dismissed or lapse by his disappearing temporarily—absconding.

Senator SUTHERLAND. Suppose, instead of saying "within such time of entry," it should read "within such time after service, not to exceed seven days," and so on. Would that meet your criticism?

Mr. HERROD. That would be an improvement. "And within such time after service," with this objection, then, that the defendants who are served to-day would notify the defendants who were sought, and they could not be served within the time specified, and consequently the defendants who were first served would drop out of the suit or the complainants would have to dismiss as to those who were not served within the specified time. I think if the section provided that the defendants who were served should be held for the purposes of the suit or until it was dismissed it would do all that could reasonably be expected. When a man is served with process of court, he should be bound until the final disposition of the case.

Senator ROOT. Would it cure the difficulty at all, to your mind, if the notice required for an extension of the time were made notice to all who had appeared; that is, obviating the necessity of searching for and finding the individuals who had been served and making a new service upon them, but at the same time giving notice to all the defendants who had put in an appearance?

Mr. HERROD. I think that would cure it to some extent, provided that with their appearance they would be obliged to specify a place where they could be served with notice. I think it would eliminate the difficulty to some extent.

Senator ROOT. Appearance by an attorney would necessarily show where the notice could be served.

Mr. HERROD. A man appearing by counsel can always be found—that is, the counsel can always be found—but if a man puts in a personal appearance without counsel we have the same difficulty unless he is made to specify where notice may be left of further proceedings in the case.

If I may proceed, the President said in his message to Congress, based upon the Republican platform:

I recommend that, in compliance with the promises thus made, appropriate legislation be adopted. The ends of justice will best be met and the chief cause of

complaint against ill-considered injunctions without notice will be removed by the enactment of a statute forbidding hereafter the issuing of any injunction or restraining order, whether temporary or permanent, by any Federal court without previous notice and a reasonable opportunity to be heard on behalf of the parties to be enjoined unless it shall appear to the satisfaction of the court that the delay necessary to give such notice and hearing would result in irreparable injury to the complainant and unless, also, the court shall, from the evidence, make a written finding, which shall be spread upon the court minutes, that immediate and irreparable injury is likely to ensue to the complainant and shall define the injury, state why it is irreparable, and shall also indorse on the order issued the date and the hour of the issuance of the order.

If a man is served and the summons is returnable one week from the date of service, he has an opportunity to appear in court and ought to be bound by the action of the court unless he does appear, and if he is present he has actual notice of what takes place. The President goes on to say that, in his judgment, the passage of such an act embodies the best practice, perhaps, in the Federal courts, and the legislation will tend to curb the issuance of ill-advised injunctions. But I think we should make it impossible for a man who knows that the courts are seeking him to evade justice merely by a temporary absence.

The next section which I will touch upon briefly is section 266a, containing the question of security. Under the present law the complainant gives security or not in the discretion of the court. But it seems to be that almost universally the court, in labor difficulties, has required security to be given, and in investigating this question I found one case which was cited as an example of the inequity of security not being given. Upon investigation I found that a bond had been given, without naming the specific amount, providing that the costs and damages of the party injured should be paid out of the bond, and when the case was heard in the Federal court, it turned out that the court, in the exercise of its discretion, refused damages, not because there was no bond given, but because he thought it was not a case for damages, the case of Russell *v.* Farley (105 U. S., 433). The section we are noticing now, 266a, has only this objection that I can think of—that is, that it will leave the smaller manufacturer or individual somewhat at the mercy of the labor men, because they are not able in all cases to produce a bond as readily as the larger and richer companies.

Section 266b is the question of the great particularity in the order of the court, and notice, and the active concert of parties whom it is sought to have enjoined. I do not think I need say anything further about notice than has been said with reference to 263, for the reason that what was said there will apply here.

Coming to the question of the great particularity to which 266b says the court shall go, it seems to me that is in direct contravention of all usages which have grown up in the courts, and which have crystallized in the chancery rules of the United States court. Rule 86 says:

In drawing up decrees or orders, neither the bill nor answer, nor other pleadings, nor any part thereof, nor the report of any master, nor any other prior proceeding, shall be recited or stated in the decree or order.

It seems to me that a man in court should be held to have notice, and certainly if he is represented by counsel, of every pleading and paper filed in the case. The record of the court is a public record, open to the inspection of anybody and everybody concerned, and the

injunctions of the court should not be burdened with such great particularity as is called for by this section 266b.

The question of active concert is one which is, in my judgment, quite dangerous. In the case of Employers' Teaming Co. *v.* Teamsters' Joint Council (141 Fed., 679) the rule was laid down that persons may be proceeded against for contempt who are not made defendants, if they have actual notice of the existence of an injunction in the case. That rule has been applied in Allis-Chalmers Co. *v.* Iron Molders' Union (150 Fed., 155), has been the rule, and was adopted in Conkey *v.* Russell (111 U. S., 417), where parties who had actual notice of the issuance of the injunction were held to be bound, and were punished for contempt of the court's order, and it seems to me that is as it should be in these days of universal education, when, as in the case of the Employers' Teaming Co., every wagon used in the service was plastered with copies of the injunction, and that it could be found on almost every street corner.

A man should not be permitted to plead ignorance of something he must of course know is in existence. The active concert part of it is touched on in True *v.* Commonwealth (14 SW., 684) in a way I might call negatively. The words "encourage, aid, or abet; counsel, advise, or assist," were said to be words in appropriate use to describe the offense of a person who, not actually doing the felonious act, by his will contributes to or procures it to be done and thereby becomes a principal or accessory, citing Omer *v.* Commonwealth (25 SW., 994).

Senator ROOT. What court was that?

Mr. HERROD. Texas. Under the construction of the word "active," in Words and Phrases, we find it means the opposite of passive. A man may be passive and yet be a very able instrument in the defiance of the court's order, it seems to me. The concert is defined as an agreement in design or plan, a union formed by mutual communication of opinions and views. If we are restricted to catching the people red-handed, so to speak, the injunction loses a great deal of its force and renders the court powerless to prevent the injuries which it is thought to prevent.

Senator SUTHERLAND. Red-handed in what, do you mean?

Mr. HERROD. In the defiance of the court's order—in the breaking or disregarding of the injunction. Take the Teamsters' case, which I have cited; the defendant who was punished for contempt was guilty of assisting in a riot, while wagons containing a copy of the injunction on all four sides were passing through the streets.

Senator SUTHERLAND. That would be an active participation.

Mr. HERROD. Yes; but he was no party to the suit. He had not been served, and under this construction he could not be punished.

Senator SUTHERLAND. I do not know that I quite understand you. Why not?

Mr. HERROD. He must be in active concert with the defendants, under this language; but he had nothing to do with the defendants. He was independent, in no way associated with them. In this case he was a city fireman, wearing the city uniform, was not a member of the molders' union, and had nothing at all to do with them, and under this language he could not be punished for disregarding the court's order, if it is necessary to serve and bring him into court before any action can be taken against him.

Section 266c: I will first notice the second paragraph of that section. The language provides, in effect, that no injunction shall issue against the peaceful picketing of a residence, a shop, a factory, or a place of business, or a place where any person happens to be. He may be an attendant upon a religious meeting, if you please, and the language of this section says it shall not be unlawful to picket him. It prevents an injunction issuing against a man obtaining an interview with another for the purpose of giving the information, or communicating information; and, thirdly, in effect legalizes the boycott.

The question of the sanctity of a man's home is prominent, it seems to me, in that section. Cooley in his great work gives a long list of cases—in the third edition, page 91—which bear out the fact that a man may defend his home from an interloper, from the moment he signifies his unwillingness that the man shall remain; in other words, if a man enters my home and I say to him, "I have nothing to say to you and I do not want you to come on my ground," I can then resist to the extent of taking the man's life if he persists in his purpose. The language of this section virtually says that it shall not be unlawful for him to do that thing.

In Markham *v.* Brown (37 Ga., 277), on page 281, this language is used by the court:

> The entering the dwelling house of another without license is a trespass in the eye of the law. And if one enter the dwelling house of another by permission, and continue there, after he has been requested to leave it, he becomes a trespasser ab initis. Cites Adams *v.* Freeman (12 John Rep., 404). This action may be maintained not only against the party who did the act, but against all who direct or assist in the commission of it.

Cooley concludes in this language:

> The meaning is, that every man's dwelling is sacred against any unlicensed intrusion and he may close and defend it not against private persons merely, but against the ministers of the law also.

In a note he says:

> If an officer breaks and enters a dwelling to serve civil process, it is a trespass. (Kelly *v.* Schuyler, 20 R. I., 432; 44 L. R. A., 435.)

It seems to me the language of this statute should not give color of legality to any such proceeding on the part of men who are dissatisfied with the actions of other men. A man does not have to listen to people's arguments, if you so term them, usually accompanied by the pressure of the brick, in the last stages. A man should not be obliged to listen to any argument in the street, in the church, or any other place, if that which I have cited is the law. If a man persists in begging, you do not have to stop and listen to him. Under this language color of legality is given to those very acts. "A man is entitled," Joyce says in his great work, "to the right of freedom from molestation, and he only has to notify the man who approaches of his desire to be let alone in such manner as to convey his meaning, and the other is obliged to respect his wishes in that matter. The street is open to the use of all alike, and neither striker nor strike breaker has any preference or right over the other." The language of this section, 266c, in the second paragraph, practically says to the strike breaker: "You must listen to the strikers, because they have some fancied claim upon a job which they voluntarily left." I main-

tain, Mr. Chairman, that the Congress of the United States should not even give color of legality to such proceeding.

A good case upon that point is the American Steel & Wire Co. *v.* The Wire Drawers & Die Makers' Union (90 Fed. Rep., 608). On page 613 the court uses this language:

> It was frequently urged in argument that the strikers have a right to be on the streets; and so they have, so long as they do not trespass on the right of others to use them. The right of the use of streets by anyone is a qualified right. The owner of a house, be it dwelling house, storehouse, or millhouse, has a distinct right of property in the streets adjacent thereto and used as approaches to it. It is the right of access—free and uninterrupted ingress and egress. Anyone who uses the streets must use them subject to this right of the householder; and there is not a particle of difference in respect of this between a dwelling house and a millhouse or large factory employing large bodies of men, who always go to the polls and vote at elections and sometimes go out on a strike. Nor is the freedom of contract and right of access through the streets to one's work at all affected by assumed peculiarities of conditions attending the struggles of men in the economic conflicts between laborers and capitalists nor by any considerations of public policy in respect of these conflicts. In one of the great cases to be cited presently what was said by an English judge is quite pertinent to this matter of strike and boycotts, and interfering between employer and employee, namely, that public policy is "an unruly horse, and when once a judge is astride it, he may be carried far away from sound law." If anyone violates the right of the householder to the streets that are appurtenant to his property as a part of it, by impairing his ingress and egress, he has a civil action, and he may also abate it by injunction in equity as a private nuisance. (In re Debs, 158 U. S., 564.)

While the legislature is, in fact, the maker of public policy, it seems to me it should be made in response to some public demand and to public opinion, rather than without reference to it.

The court further says in this case:

> It is just as much a nuisance to block up the street and impair the right by the continual presence of bodies of men, great or small, who obstruct the ingress and egress, as it would be to build barricades and embankments in the street. (In re Debs, supra.) There can be no denial of this, and when the blockading is done for the especial purpose of impairing the ingress to a particular house it is directly a nuisance, which may be abated by injunction, if necessary. (Id.) This is a sound rule of law, from which no unruly horse of public policy should carry a judge any distance at all, no matter how ably it is urged upon him by learned and eloquent counsel pleading for the rights of labor as against capital, corporations, and despised foreigners, who organize "scabs" to resist the strikers in favor of odious trusts.

The very late work of W. A. Martin upon the Law of Labor Unions has stated the case about as favorably to the labor unions as it can be done, it seems to me. I might say it was referred to in the majority report of the committee who reported the bill to the House. I shall have occasion to refer to Martin's books to some extent. He says that there is such a thing as peaceful picketing, or he rather strains to make peaceful picketing the rule, and goes on to say that some of the decisions have said that there can be no peaceful picketing, but that the weight of opinion is that, under certain conditions, picketing, if peacefully done, is lawful.

The extent to which that may be done, in Martin's judgment, is this (p. 237):

> The stationing of not more than two men as pickets in any one place, would perhaps be a safe rule to avoid transgression of the law against intimidation by reason of numbers alone.

He recognizes the great rule laid down in a number of cases, that intimidation may take place without the raising of a finger. The mere presence of numbers, one against a score, if you will, or one

against a dozen, is sufficient to terrorize most men, the average man would say.

I would like to call the attention of the committee to the practical side of this question, that the presence of two men upon the sidewalks in front of an establishment employing 500 operatives, strike breakers, would not have the effect of causing the employer to employ guards to attend these men to their homes, to install a commissary within the plants. I think these facts are well known to the committee. These are the ordinary incidents of a strike in any manufacturing plant. The peaceful persuasion of two men would never cause an employer to have to lead his men in the back gate under armed guard, and would never cause men to be afraid to venture on the street after working hours, and become virtual prisoners within the confines of the plant and, in one case which came under my notice, using the waterway adjacent to the plant as the method of ingress and egress, while the street was occupied by the so-called peaceful persuaders. These are practical questions, which the committee must, in the ordinary course of life, read of.

It was only Saturday, I think, we read in the Washington papers that the military guard had been withdrawn from a lumber camp where a strike was going on, with the result that every strike breaker took to the woods. Is it to be supposed that the peaceful persuasion of strikers would cause such an effect, and the declared reason in cases where men are willing to work, and are prevented from working in strikes, is this: They say, "The wages are all right, everything else is all right, but I do not want to take a chance of getting my head broken."

The Allis Chalmers case which I have cited (150 Fed., p. 155) says that while peaceful picketing is very much of an illusion, yet it is at least theoretically possible and entirely lawful. Martin uses that case on which to base his statement that perhaps two men on the sidewalk would constitute peaceful picketing. I do not know of any case where the strike breakers have been the aggressors in the violence which accompanies the strikes. They are not contesting the use of the sidewalk with the strikers, and they are not obliged in any case, although they do, as a matter of precaution and good policy, listen to their peaceful persuasion. In the court of last resort, in the case of Allis Chalmers (166 Fed., 45), which is the appeal from the same case in 150 Federal, the decree as finally modified and affirmed enjoined the laboring men from doing the following things—and I am not citing the decree in its entirety, but just the controlling language.

Specification 2 of the order: Compelling, etc., * * * by threats, intimidation, force, or violence * * * to fail or refuse to work.

Specification 3: From preventing or attempting * * * by threats, intimidation, force, or violence from freely entering the plant of the complainant.

Specification 4: And from congregating * * * for the purpose of intimidating its employees * * * or for the purpose of, in such manner as to induce or coerce by threats, violence, or intimidation any of the * * * employees to leave * * * or any person to refuse to enter.

In that specification the upper court cut out the words "or persuasion" by its order.

Specification 5: From congregating * * * and from picketing in a threatening or intimidating manner * * * homes, boarding houses, or residences.

Specification 6: From interfering * * * in going to and from their work.

Specification 7: From going * * * to the homes * * * for the purpose of intimidating or threatening them, the upper court having in that case eliminated the word "persuading."

Specification 11: From intimidating or threatening * * * the wives and families * * * at their homes or elsewhere, and we are talking supposedly about American workmen in that specification.

Specification 12: From doing any * * * acts for the purpose of * * * by threats, intimidation, force, or violence * * * to employ or discharge.

Specification 13: From combining, associating, agreeing, mutually undertaking, concerting together or with other persons—any of the prohibitive acts.

Specification 16: From by threats, intimidation, persuasion, force, or violence, compelling or attempting to compel or induce any of the apprentices to break their contracts.

Those are the things from which the proponents of this bill are seeking to escape. I do not want to say more than to say that every ground which remains in that injunction as finally rendered should be enjoined against if it is necessary. This is not a day when men ought to be allowed to persecute women and children in the absence of their natural protectors. That is one of the specifications in this injunction.

In Atchison *v.* Gee (139 Fed., 582) the court said—and this is cited by Martin as an extreme case:

> There is and can be no such thing as peaceful picketing any more than there can be chaste vulgarity, or peaceful mobbing, or lawful lynching.

On page 585 the court says:

> But this court has a concern that peace and quiet prevail, and that a state of serfdom shall not exist by a so-called system of "picketing" of one crowd of men over another. No self-respecting man will submit to it. Nor is he compelled to submit to it.

I submit, Mr. Chairman and Senators, that we are taking a step backwards when we oblige men to resort to first principles. No self-respecting man will submit to it. There is but one construction that can be placed upon that language; he must either seek the protection of the court, or he must take the rights which the law gives him to defend himself at his home. Martin himself says that the secondary boycott is unlawful:

> The reasons for holding that way are so strong that it is not probable that the doctrine of these cases will ever acquire any permanent foothold in the jurisprudence of this or any other country.

He cites a number of cases as upholding the legality of the secondary boycott. Two of them are from California, in which it seemed that the California Supreme Court has said that the secondary boycott is a lawful weapon, with a dissenting opinion from one of the justices, who regrets the fact that the State has taken that ground.

Another case which he cites is from Montana, in which the question of the right to print or publish, under constitutional guaranty, controlled the case, rather than the question of the legality of the secondary boycott, and the court held that under the Constitution they were not permitted to interfere with that right, but that the complainant must seek his remedy in the law courts.

The case of the Union Pacific Railroad Co. *v.* Ruef (120 Fed., 102) is a good case upon the right of freedom from molestation.

In section 266c, in the first paragraph, we are seeking to legislate that no injunction involving or growing out of a dispute concerning terms or conditions of employment shall issue, except where irreparable injury to property or property rights will ensue, and considerable has been said on the question of whether the right to do business is a property right. The case of United States *v.* Adair (208 U. S.) was cited, and I find in the case of New York Central Iron Works Co. *v.* Brennan (105 N. Y. Supp., 865, 869) the court said:

> It would be a startling proposition to say that men willing to work for the wages paid by this plaintiff should not be protected in the right to work for whomsoever they please, provided they can get the employment. That is one of the rights of an American citizen, which it is the business of the courts to strictly uphold and protect.
>
> The business of this plaintiff, when it is conducted according to law, is a property right, and any unlawful interference with or interruption of that business is an injury to a property right and a court of equity has jurisdiction to restrain by injunction the carrying out of any conspiracy to destroy or injure such property, and the court is not deprived of this power because of the fact that the acts are criminal and could be prosecuted criminally. (Davis *v.* Zimmerman, 36 N. Y. Supp., 303; 91 Hun., 489.)

The first paragraph of section 266c takes the worst features of the English law and incorporates them, without the drastic provisions and powers given to the court to proceed in cases of violence arising out of a trade dispute. It seeks to exempt a class of our citizens from the operation of the law in a few words, and, quoting Martin again, who has, as I have said, stated the labor case just as favorably as it could be done, in my judgment, he has this to say of the trade-dispute act of 1906:

> It is in a high degree oppressive and unjust to those who are not members of trade-unions.

Senator SUTHERLAND. That is the English act he is speaking of?

Mr. HERROD. That is the English act. The British trade dispute act of 1906 has been incorporated in the hearing, so that I will take it for granted the committee is familiar with it. But on this subject I would like to read from a pamphlet which was prepared by the Hon. J. J. Feeley, of Boston, who has given a great deal of time and work to this subject, and his conclusions are put into a little pamphlet which was read at the annual convention of our association in New York, April 11, 1912. On page 11, under the heading "Conditions in England," Mr. Feeley says:

> In 1907, Parliament went to the extreme length, courting the political favor of labor organizations, of passing a law depriving courts of the power to interfere in labor disputes. The result has been that in times of business prosperity such combinations have caused the cessation of industries until their demands were complied with. In periods of dull business employers have shut down their plants until their demands were complied with, and England, consequently, is to-day in the most deplorable condition, industrially, of any of the great civilized nations. As a nation, she has been threatened by combinations of railroad employees with refusal to convey her troops if employed in opposition to the wishes of certain other allied combinations.

She has seen her industries, her commrce paralyzed, her people made to suffer, her national security imperiled—not a happy result of absolving one class of her citizens from proper legal restraint.

If the Debs case were reenacted under this law, it does not take very much imagination to see what the result would be. The Debs sympathizers on the railroads would perforce refuse to convey the troops to the scene of hostilities, and no court could reach them for their refusal. Mr. Feeley, continuing, says, speaking of the United States:

In no country does the laborer receive so high wages, in no land is it possible for him with thrift to net so much as is evidenced by the marvelous increase in the deposits of savings banks in industrial centers, the surest barometer of the prosperity of the laboring classes. Yet a clamor is heard, loudest from those who but a few brief years ago left their native land to improve their lot and upon whom, after a few brief years of residence, we confer the privilege of citizenship, the most valuable privilege we have to confer even upon our own children. They bring with them and force upon our attention ideas foreign to those which have hitherto inspired and guided the Anglo-Saxon race. Their numerical superiority in certain industrial centers enables them under our political system to cause such ideas to be favored by legislators guided by expediency and a desire for political advancement, rather than by wisdom and patriotism.

Coming, now, to a few general remarks on the bill as a whole, I would like to ask to leave this question with the committee, Will the preservation of the status quo in a labor dispute injure the laboring man, the striker? How does he suffer? He has no opportunity to wreak the things which we read so much about in the paper. I want respectfully to leave that question with the committee: Will the preservation of the status quo in a labor dispute, until such time as the court can pass upon the rights of parties, injure the strikers? Not in their legal rights. There is no question as to the civil liability of the participants in any of these labor disturbances.

Senator ROOT. What do you mean by that—the civil liability?

Mr. HERROD. If a man is guilty of any kind of violence, whether it is in a labor dispute or not, at this time, he may be sued civilly for a tort, but what good purpose does that serve, even though the law of imprisonment to collect a tort judgment were invoked? The things that the proponents of this bill are seeking, I think, are well set out in the language of Mr. Gompers, on page 22 of the hearings on this bill in the House, where he says:

I hold that the court has no right to issue an injunction forbidding me to refer to the dispute which labor had with certain employers, and when it undertook to do that it invaded the right of free press, and that the right of free press was too sacred to surrender to an unconstitutional and unwarranted usurpation of power by a judge of a court, and when it came to a question of rights handed down from the Magna Charta to the Declaration of Independence and the Constitution of our country, and to obeying an unwarranted and unconstitutional order of the court, I would stand by my rights granted to me by the Constitution of my country.

If that language means anything, it means that every man who has a case in court shall be the judge as to whether the court decides rightly or wrongly. I read from the same hearing:

Mr. HOWLAND. Mr. Chairman, may I ask, Do I understand, Mr. Gompers, you take the position that if in your judgment the decree of a court is wrong you would refuse to obey it?

Mr. GOMPERS. No, sir; I made no such statement.

Senator ROOT. Is not Mr. Gompers drawing a distinction there between an order of the court that is wrong and an order of the court that is not within its jurisdiction?

Mr. HERROD. No. He says:

The court has no right to issue an injunction forbidding me to refer to the dispute which labor had with certain employers, and when it undertook to do that it invaded the right of free press, and that the right of free press was too sacred to surrender to an unconstitutional and unwarranted usurpation of power by a judge of a court, and when it came to a question of rights handed down from the Magna Charta to the Declaration of Independence and the Constitution of our country, and to obeying an unwarranted and unconstitutional order of the court, I would stand by my rights granted to me by the Constitution of my country.

Mr. GOMPERS. Mr. Chairman, may I interpose at this time for a moment? I feel that the gentleman, by the manner of his presentation, does not desire to do me a personal injustice. May I interrupt just for a moment?

Mr. HERROD. Certainly.

Mr. GOMPERS. The contention I have made is not as to a mistaken or an erroneous order of the court, but an order which is obviously unconstitutional and void.

Mr. DAVENPORT. My I inquire right here, if Mr. Gompers's contention is not that an injunction to prevent a man from boycotting is unconstitutional and void?

Mr. GOMPERS. I undertook to correct an impression which would place me in a false position. The question of Mr. Davenport raises the entire matter in controversy. What we have contended is not simply the question, or only the question, of the right to boycott or the right to strike, but the right of a court to issue an injunction in advance prohibiting the discussion of a certain question, of any substance whatsoever, our contention being that when a court issues an order in advance forbidding the discussion of any subject, a censorship has been established, and free speech and free press denied, the abuse of the right of free speech or of free press to be made, the utterer or publisher to be held responsible for his utterances, whatever they may be; but that no court has the right in advance to prohibit or enjoin free speech and free press.

Mr. HERROD. Does not that come back to the question I stated, would the rights of the laboring man be injured if the status quo were preserved until the Supreme Court could pass upon that question, and would the respect for the courts be increased or decreased by this proceeding?

Now, Mr. Chairman and Senators, it seems to me that if the Congress and the State legislatures would oblige the labor unions to incorporate or to register in some way so that the funds in their treasury could be made available to pay the civil damages accruing to the workmen and to the employer out of some of these strike difficulties, they certainly would soon be out of business. There is no question about the civil liability of the individual, and the moment the union treasury is made available to pay the damages which they inflict, I say the question is settled absolutely for all time, and if the operation of this law is made contingent upon their incorporating and making their funds available, I think we have gone a long way toward adjusting the difficulty between capital and labor.

In this connection I want to refer to a letter, which is in the hearings, from Mr. Drew, of the National Erectors' Association, in which the union is directly connected up with the violence which took place. The letter is as follows:

HEADQUARTERS INTERNATIONAL ASSOCIATION OF
BRIDGE AND STRUCTURAL IRON WORKERS,
Cleveland, Ohio, June 8, 1906.

Mr. F. M. RYAN,
Ashland House, New York City.

DEAR SIR AND BROTHER: Inclosed you will find an appeal for financial aid received from Local Union No. 10 of Kansas City.

By referring to President Ryan's letter of the 7th instant you can readily see our present financial standing and future prospects.

I have forwarded Brother Gerring, the secretary of Local Union No. 28, Richmond, Va., $100 to assist them in their struggle with the A. B. Co. and Erectors' Association.

Am inclosing you statements from Borden and Elsemore, two members of No. 17. The facts, in brief, are as follows:

Ex-President Buchanan authorized Brother McClory to do some missionary work in Toledo. McClory thought $150 would be sufficient, and I issued him check for the amount. He secured four men. Among them were Borden and Elsemore. They went to Toledo and returned to Cleveland. Shortly after their return they were arrested for assault. We secured attorney and had jury trial. Jury disagreed—11 for conviction and 1 for acquittal. Our attorney stated that he was positive next trial would result in conviction and advised pleading guilty, with hope of securing parole before election, which was coming up. He also stated that if that was not satisfactory he would withdraw and we could get another attorney. He stated that he was positive that he could secure a parole within 10 days, and, acting on his advice, I assured the two men they would be recompensed for any time spent in jail. Men pleaded guilty and were sentenced to six months in jail. Attorney proceeded to get parole as promised; but about this time the Central Labor Union of Toledo adopted resolutions against two members of the board of public service, which board was composed of three men and had authority to grant paroles.

The question thus became a political issue, and there was nothing doing in the parole line. When the election rolled around in November, the two members of the board of public service, against whom the Central Labor Union had adopted resolutions, were defeated, but their terms did not expire until January 1, 1906, and they absolutely refused to do anything relative to paroling Borden and Elsemore. When new members took office, their authority to grant paroles was questioned and the case taken to court. It was not settled until the 1st of February. Borden and Elsemore were paroled after spending about five months in jail.

Elsemore received $321.30; Borden received $316.80.

They insisted on receiving more money, which I refused to give them, owing to the fact that we had all sorts of trouble and a very small income to handle it with. They seemed dissatisfied, and I told them to take it up with Ryan or executive board.

It was brought to Ryan's attention when he was at headquarters recently, and he refused to have anything to do with it other than to refer it to the board for an opinion. He stated to them that in his opinion, when all things were considered, they had been very liberally treated by me.

The attorney fees for two trials amount to something like $169.

Hoping to hear from you relative to the above proposition by return mail, I am,
Fraternally, yours,

J. J. MCNAMARA, *Secretary-Treasurer.*

I submit, Mr. Chairman, that there is an authentic case connecting directly the organized body with the violations which took place, and we can reason from inference to rule. I therefore reiterate that if the Congress will make the operation of any law of this kind contingent upon the unions being incorporated or registered in some way as to make their funds available to pay these damages that they will pretty soon have no funds or they will resort to other than the tactics which have governed their actions heretofore.

I want to say in conclusion that it seems to me the concessions which we are attempting to grant to a class in this bill are dangerous in the extreme. The concessions, I believe, would be taken and looked upon in the nature of being something done to placate the labor unions. But it is only necessary for this committee to apprise itself of the relative numerical strength of union labor as compared with independent or nonunion labor to see to what a limited class this legislation addresses itself.

Mr. EMERY. Mr. Chairman, may I have just an instant of the committee's time to emphasize and call to their attention the letter to which Mr. Herrod just referred, which was put in the record by Mr. Drew previously, and he offered the committee at that time a photographic copy of the letter? I ask the committee's special attention to it for the reason that it discloses the acts not of an individual nor of a small group of men, but of the representative of some 18,000 men, members of the American Federation of Labor, in good standing, for whom Mr. Gompers appears in asking this legislation. I ask the committee's special attention to this because I desire to make the matter a subject of some argument, it being the representative act of 18,000 men through their officers. If there is any question as to the authenticity of that letter, the President Buchanan referred to, who authorized the payment of a per diem sum to a man who committed an offense during the term of imprisonment which was served in the interest of the organization, is a Member of this Congress, sitting here now; and if there is any question of the authenticity of that letter it can be readily settled.

Mr. HERROD. In conclusion, Mr. Chairman, I think that the passage of the proposed bill would be a step backward. Judge Story says in the thirteenth edition of his work, on page 264 of the second volume:

> Courts of equity constantly decline to lay down any rule which shall limit their power and discretion as to the particular cases in which injunctions shall be granted or withheld, and there is wisdom in this course, for it is impossible to foresee all of the exigencies of society which may require their aid and assistance to protect rights or redress wrongs. The jurisdiction of these courts, those operating by way of special injunction, is manifestly indispensable for the purpose of social justice in a great variety of cases, and therefore should be fostered and upheld by a steady confidence.

I submit that the enactment of such a law will oblige interested parties to take up the same weapons which the labor men have heretofore been in the habit (I say "in the habit" advisedly) of using, and I submit on behalf of the association which I represent that this bill should not become a law.

I thank you for your attention.

Senator ROOT. We will hear the advocates of the bill on Thursday afternoon at 2 o'clock. The committee stands adjourned until that time.

Thereupon, at 4.30 o'clock p. m., the committee adjourned until Thursday, July 18, 1912, at 2 o'clock p. m.

THURSDAY, JULY 18, 1912.

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
Washington, D. C.

The subcommittee met at 2 o'clock p. m., pursuant to the adjournment of Tuesday, July 16.

Present: Senator Root (chairman):.

Senator ROOT. The gentlemen who expected to address the subcommittee this afternoon are unavoidably detained, and the subcommittee will stand adjourned until either Tuesday or Thurdsay of next week, to be determined upon consultation with other members of the subcommittee.

Mr. T. C. SPELLING. Before you make an order in regard to that I would like to say a word. I have been within the last two hours requested by high authorities and representatives of the labor organizations to make an argument in favor of this bill. I have not had time to make preparation, but that is neither here nor there, since you have adjourned over until next Tuesday or Thursday.

But I would like to have it understood, since the argument I am going to try to make will be a legal argument and in answer to the objections and attacks upon this bill, that those who appear against the bill, especially the attorneys, be heard before I make my argument, because that will be the closing legal argument for the proponents.

Those in favor of the bill are entitled to the close, and I make that request and would like to have it understood to-day.

Senator ROOT. The subcommittee will not pass upon that request now, but will give it consideration at the next meeting or at such point as seems to be an appropriate point for the decision as to the final order of argument. I would like to say for myself I do not think it is of much consequence one way or the other. The subcommittee will probably conform its actions to the convenience of the gentlemen coming before it.

Mr. SPELLING. I just want to add this. I have made the statement to-day, and described the situation, because the other side is represented here by the gentleman who proposes to address the committee, and this will give him time to be prepared for the decision of the committee, whatever it may be.

Mr. EMERY. I merely desire to call the attention of the chairman to the fact that the opponents of this legislation have been in the unusual position of being compelled to address themselves to a measure which has not been argued before this committee by any person in its favor, an unusual position. For that reason, we should like to be heard after the legal argument has been made by those in favor of it.

Senator ROOT. The subcommittee will pass upon that, as I said before, at a later time.

Thereupon the committee adjourned until Tuesday or Thursday of next week, July 23 or 25, 1912, to be hereafter determined.

LIMITING FEDERAL INJUNCTIONS

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

SIXTY-SECOND CONGRESS

SECOND SESSION

ON

H. R. 23635

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO CODIFY, REVISE, AND AMEND THE LAWS RELATING TO THE JUDICIARY," APPROVED MARCH 3, 1911

Printed for the use of the Committee on the Judiciary

PART 5

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1912

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UNITED STATES SENATE.

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LIMITING FEDERAL INJUNCTIONS.

TUESDAY, AUGUST 13, 1912.

SUBCOMMITTEE OF COMMITTEE ON THE JUDICIARY,
UNITED STATES SENATE,
Washington, D. C.

The subcommittee met at 12.30 p. m.

Present: Senators Root (chairman), Sutherland, O'Gorman, and Chilton.

The CHAIRMAN. We will be obliged to proceed with this hearing without a full subcommittee, as several of the members are absent. The situation in the Senate is such that we are liable to have to adjourn and return to the Senate Chamber at any time; so we will have to make the best of our time. We will be glad to hear Mr. Gompers now.

STATEMENT OF MR. SAMUEL GOMPERS.

Mr. GOMPERS. Mr. Chairman, since the last meeting of the sub committee of the Judiciary Committee I learned that some decision or conclusion had been reached that the subcommittee will hold no further sessions during this session of Congress on the Clayton injunction bill, and I was very much astonished that that decision had been reached and took upon myself to address a letter to Senator Root, as chairman of the subcommittee, expressing my feeling and wanting to know whether that was final. Of the two reasons given, one was that the Senate would not have the opportunity to have a report of the committee upon this bill, and the second was the charges and insinuations with which the record has been loaded down—charges and insinuations of criminality and criminal conduct against men against whose honor not one word can justifiably be asserted are made. I was later informed that the subcommittee would hold a meeting this morning at noon.

Now, I just want to say one word in connection with one portion of the letter which I received from the Senator, and that is that the bill could very well go over; there would be no time for its consideration. You say that this legislation upon which this bill, the Clayton injunction bill, is based has been before Congress, and before this Congress, and before several Congresses for the past 12 years. The bill passed the House of Representatives on May 14, three months ago to-morrow. The bill in itself may appear unimportant to some of the Senators; but we believe that the bill is of such paramount importance in the matter of justice and right that, though other legislation which has passed and which has received the attention of Congress has become law, there is no one piece of legislation enacted by this Congress of greater importance to real liberty and justice than the bill before this committee. Now, of course, if the committee

remains of the opinion and adheres to what I have been given to understand is decided—that is, not to report this bill to the Senate before the adjournment of this session of Congress—much of the argument that I would care to submit and the facts that I wish to submit would not be presented at this time, and much I shall then, of necessity, be compelled to defer until some more opportune time, when the committee will be willing to hear it.

The CHAIRMAN. Do you want an expression upon that point now?

Mr. GOMPERS. I should like to have it.

The CHAIRMAN. I will say that the committee has taken no formal action, but I think I am safe in saying that every member of the subcommittee—I know it is true of Mr. O'Gorman, Mr. Nelson, Mr. Sutherland, and myself—in private conversation have agreed that it will be impossible to secure a proper consideration of this bill by the full Judiciary Committee and report to the Senate and consideration and action by the Senate during the present session. The session is drawing to its close and the appropriation bills and some other measures which have to be passed before adjournment is such that it is perfectly plain that it would be impossible to bring in this measure and have the discussion that will necessarily ensue and the consideration that it ought to have; so that while there has been no action of the committee, I think we will be safe in assuming that the bill will go over until the next session of Congress. That is correct, is it not, Mr. Sutherland?

Senator SUTHERLAND. Yes; I do not see how at this time any other course can be taken with regard to it. In all probabilities we will get through here next week with this session of Congress and the full Committee of the Judiciary can not give it consideration, let alone Congress.

Mr. GOMPERS. I can only express my deep regret and disappointment; not only my own, but the regret and the disappointment of very many people who are associated with me, not only in organization, but in spirit, sentiment, and thought and hope. However, as I say, that decision or conclusion reached by the committee, even though informal, I suppose must be binding upon us. In view of that I will say that I took occasion during the presentation of matters before this committee to interpose an objection and a protest that men's names should be played with and charges and insinuations made and indulged in that assailed the character of men for good or for ill. I have been before committees of Congress for more than 35 years, and I have never heard or seen such foreign, such extraneous, insinuations and charges made against men such as I have heard and have seen placed upon the record before this committee; matters having no relation to the bill under consideration at all. The record is loaded down with charges of crime against men, myself included, by indirection and placed upon the record of these hearings as having assisted and aided and abetted and counseled not only crimes before its commission, but after.

At one time during one of the statements I was impelled; perhaps involuntarily, to say, "Am I on trial before this committee charged with a crime?" As a matter of fact, if that which appears upon the record goes unchallenged and unanswered it is practically a plea of guilty of all that has been charged and insinuated, and if an ample answer is made the committee is constituted a trial board to try me

and my associates. I have no desire to be placed in such a position. Had the attorneys who appeared before this committee in opposition to the bill confined themselves to legal argument, in all likelihood we would not have offered a word in support of the bill, depending upon the arguments which were made before the Judiciary Committee of the House, the report made by the Judiciary Committee of the House in favorably recommending the passage of this bill and the discussion in the House upon the bill.

I shall ask an opportunity for a legal argument to be presented in support of the bill and in refutation of the statements and arguments and positions made by the attorneys in opposition to the bill, but in view of the conclusion reached by the committee not to consider the bill at this session of Congress, that argument is not essential now. However, there is this feature that I do believe ought to be presented: A man is named specifically by one of the attorneys appearing before this committee, charging a crime, specifically stating the crime, time, place, and date and circumstances. When that charge was made by Mr. Monaghan, I protested and gave my expression of opinion and judgment of the man whom he named, and I may say that on last Sunday I communicated with this man, Mr. Joseph F. Valentine. I called him from his home at Cincinnati and said to him that in my judgment he ought to come here and come before this committee personally and make his statement in regard to the accusation made against him. Mr. Valentine informed me that he was then engaged, and had been for several weeks, and would be for several weeks more, in negotiations with the largest employers of America in the iron industry for the purpose of adjusting wages, hours, and conditions of employment for thousands of workmen throughout the country and that it would be practically setting all that work at a standstill without regard to the consequences that might ensue if he came to Washington. I still insisted that to my mind there wasn't anything of greater importance than for him to be here, and he is here. He, as the president of the International Molder's Union of America, Mr. John P. Frye, the editor of the official journal of that organization, and their attorney are here.

So far as I am concerned, I have no defense to make for my course, for my conduct as a labor man, as a man or as a citizen, and all the attorneys of whatever kind, and particularly all of the attorneys representing these corporations and so-called antiboycott associations which have come here and tried to cast a stigma against my name and my work, I can snap my finger at with a challenge to them to refer to one act that would reflect upon my honor or my character or my patriotism or my love for being a law-abiding citizen. I am protesting, and will protest so long as there is life in me, against wrong and injustice.

Mr. Walter Drew made a statement in the hearing of Senator Root and Senator Sutherland that Mr. Gompers has appeared before committees of both Houses of Congress, and that he, Mr. Drew, had never heard Mr. Gompers make an argument but what it was accompanied by a threat, conveying to your minds that I was guilty of some heinous offense, because I indulged in a threat. I do not know to what he referred, but if he had in mind what I have in mind I will confirm his statement; that is, that I am advocating legislation from Congress which I believe to be essential to the well-being of our

citizenship. I am presenting it with whatever ability I may have. I am presenting it with whatever force there may be in me; with whatever insistence there may be in my makeup, and perhaps when the occasion has arisen I have threatened, and when the occasion shall arise again I shall indulge in the same threat; that is, I am appealing to the judgment and the conscience of my fellow citizens who are Representatives and Senators in Congress. If I can not persuade them to my belief, and I am honestly convinced that I am right, then I am going to try and convince my fellow citizens that they are wrong and that the people should elect others. That is the length and breadth and effect of my threat. And, life remaining with me, I shall continue. I regard it, as I think it is generally regarded, as the highest duty of a citizen to either conform his judgment to the general and best judgment of the people, or, if our views and convictions vary with those intrusted for the time being with the power of government, to see by the means afforded by the Constitution and laws of our country that others supplant them in their positions. That is the duty of American citizenship, and in our political campaigns, once in four years, or once every two years, or in municipalities sometimes every year, in the political parties differences of opinion arise, and the contest between the two or more parties is in order that the threat shall be carried out and put into execution, to change the control of the affairs of Government.

That is my position. I think that it is not only my right, but my duty as a man and a citizen, and so long as there are those who will hear they will hear me in that position.

Now, I would like at this time for the committee to hear Mr. Joseph F. Valentine.

The CHAIRMAN. Mr. Gompers, can you point out what the testimony is or the statement is to which you refer? I was not present at the time that testimony was taken and I really do not know what you are referring to.

Mr. GOMPERS. It is a matter of record fully, and I have no desire to indulge in the same pursuit of the several attorneys who appeared here by burdening the record with things and documents, duplicating them and triplicating them into the record. Mr. Valentine will make reference to the statement made by Mr. Monaghan reflecting upon him and answer them.

STATEMENT OF MR. JOSEPH F. VALENTINE.

Mr. VALENTINE. The record referred to is on pages 63, 64, and 65 of the hearing. I am sorry that I was not here when the statement was made; I then would have had an opportunity to refute them in the presence of the gentleman who made them, Mr. Monaghan, who, I understand, was representing the National Founders' Association.

The CHAIRMAN. Do you refer to hearing of June 13, 1912?

Mr. VALENTINE. I think that is it; part 2. I shall read from the bottom of page 63 of the hearing of June 13, 1912.

Mr. MONAGHAN. Right now. In Cincinnati Ohio, the iron molders' union, a concern identified with the American Federation of Labor. In the strike of 1904, F. L. Rauhausen, an apprentice boy employed by the Eureka Foundry Co., confessed under oath that he had been hired by the president of the iron molders' union in his

office at Cincinnati to dynamite molds at the foundry at the price of $20 each. This confession was subsequently corroborated by the boy's father. The case was brought before court and the boy fined.

I wish to emphatically deny that statement. There is no truth in it whatever.

Senator O'GORMAN. Do you mean as to the confession or as to the facts?

Mr. VALENTINE. As to the facts, sir. On page 64 of the same hearing the following occurs:

The CHAIRMAN. There are two questions I would like to get information on. If you object, you need not answer. Was the boy a member of the union?
Mr. GOMPERS. No, sir; he was not.
Mr. MONAGHAN. His father was.

This boy's father, whom I do not know, is not now nor ever has been a member of the International Molder' Union. He is not eligible under its laws because, as I understand it, he has never worked at the trade. The next statement, as I understand it, was that I was arrested and charged with having given this boy $20 for each cartridge he put in the molds, etc. For the benefit of the committee I will, in a few words, state the facts of the case. I was in Cleveland, Ohio, the day before Thanksgiving Day, about to address a meeting in that city that evening. I was called on the telephone by the secretary of our union, Mr. Denny. He told me there was a warrant out for my arrest. It was news to me, as I had never been arrested before in my life and never had been charged with crime or anything else in my existence, and I had lived a good many years. I asked him the particulars of it. He said, "There is a warrant out for your arrest. You are charged with having been guilty of furnishing money or giving money to a boy to buy dynamite cartridges to put in a mold in the Eureka foundry." I was dumfounded. I told Mr. Denny it was impossible for me to leave, because I had to address that meeting that night, but to say to those in authority that I would leave upon the next train and go to Cincinnati. He communicated this information to the police office, so I am told, and despite that statement they sent an order there to arrest me, and they did arrest me in the American House in Cleveland, Ohio. I was brought to the office in the jail and some one took an interest in the case and wanted to go my bail, a Mr. Reynolds, the proprietor of the house. They said they could not accept bail; that I would have to be locked up until some one came from Cincinnati to take me back there.

The matter was brought to the attention of the mayor of the city and he came down to see me and said, "This is all wrong"; and he permitted me to stay right in that office, and after a while, when I was sitting there reading the papers, he said, "Here is the freedom of the city." I went back to the hotel, addressed the meeting that night, and the next morning a detective came from Cincinnati to take me back. I awaited his pleasure. I wanted to go back on the first train, but I waited until the next day at 12 o'clock, when we went back together.

When I arrived in Cincinnati there was bail there ready for me and it was presented and I was liberated. I hired an attorney to defend me. The case went before the grand jury and that ended it so far as I was concerned. Before leaving Cincinnati I went to the

prosecuting attorney and asked him to give me a statement as to whether I was ever indicted by the grand jury of Hamilton County, and this is the statement he gave me:

OFFICE OF THE PROSECUTING ATTORNEY OF HAMILTON COUNTY,
CRIMINAL DEPARTMENT, COURTHOUSE,
Cincinnati, August 12, 1912.

To whom it may concern:

From an examination of the criminal records of Hamilton County, Ohio, which I have this day made from the year 1900 to the present time, I find that there has been no indictment for any crime whatsoever returned by any grand jury of Hamilton County, Ohio, against Joseph Valentine.

Respectfully,
THOMAS L. POGUE,
Prosecuting Attorney, Hamilton County, Ohio.

Now, Mr. Chairman and members of the committee, as Mr. Gompers has already stated, he called me on the telephone Sunday morning and told me the importance of this matter. I usually do not pay any attention to these things, because I think they are small. Men who indulge in these sort of tactics usually find their own level, and I usually pay no attention to them, but on this occasion I said to Mr. Gompers I will drop everything that I have and be in Washington on Tuesday morning; and I am here.

I am sorry Mr. Monaghan is not here. I do not know the gentleman; have never met him, but I would like to meet him. I will say to this committee that he will have to tell me where he got this information. It is true, according to the record here, he read this to the committee as a report made by the president of the National Founders' Association of one of these conventions, and he says this is the report, but the inference, when he was talking to the committee, was that he knew of it. Now, I thought, Mr. Chairman, that it was necessary for me to appear before the committee to get into the record what I have already said.

As to my character and standing as a citizen, our organization has been what might be termed one of the conservative institutions of the country. We were born in 1859, and we have been here ever since. We have contracts with the largest employers in the country; and, as Mr. Gompers has already stated, we are about to contract with another in a day or two, and we have always been at peace except where we were attacked unjustly, in which case we have always defended ourselves. We have never asked anyone to help us except the members of the union.

Senator SUTHERLAND. Before you close I am going to ask you this question; perhaps you have stated the information already; if so, it escaped my attention: Did you know this boy at all?

Mr. VALENTINE. No, sir; nor did I know his father.

Senator SUTHERLAND. Had you ever heard of the case until you read about it?

Mr. VALENTINE. Oh, yes, sir; I heard all about the case.

Senator SUTHERLAND. The boy was convicted of this offense?

Mr. VALENTINE. So the record says—that is, so far as Mr. Monaghan is concerned. I do not know that the case ever came before the court at all.

Senator SUTHERLAND. Do you know whether or not the boy ever made any statement implicating you in the matter?

Mr. VALENTINE. I do not know that, Senator. I do not know whether he did or not.

Senator SUTHERLAND. Was it ever brought to your attention until the statement here?

Mr. VALENTINE. Not until recently. It has never been called to my attention until recently. I do not know what statement the boy made. I am just trying to refute the statement made by Mr. Monaghan that I did thus and so.

Senator SUTHERLAND. Mr. Monaghan said that the boy confessed under oath. I simply wanted to have you state, if that be the fact, that you had not heard of it until you read of it here.

Mr. VALENTINE. I can not say positively whether he did confess under oath or not, but I do not believe that he did. There is no record of the case that I know of. It never came before the court. It was referred to the grand jury immediately, and the action of the grand jury is as stated in the record. This boy was convicted, that is true, or he was indicted. Now, the statement was made, too, by Mr. Monaghan that we paid the fine of the boy; that the molders' union paid that. Now, if the molders' union pays any money out, it is necessary, under its laws, that I sign the check or send an order for it, and I never sent any such order.

Senator ROOT. I see that the statement, which I suppose is the one you refer to, at the top of page 64 of the testimony, is

Rauhausen—

That is the boy, I suppose—

was fined $400, as appears by the records of the court, which was paid by the molders' union's attorney of record.

Mr. VALENTINE. The molders' union has no attorney. I had an attorney. The molders' union had nothing to do with this. The president of the molders' union was myself, and the molders' union had nothing to do with it. I do not believe the molders' union would have anything to do with me if I was convicted of doing what they say I did do—taking a small boy and loading him up with dynamite and putting him in a foundry to blow up molds he was going to pour himself. I do not think I would do that.

Senator O'GORMAN. It appears in the testimony of Mr. Monaghan, at page 64, that this boy first pleaded not guilty, from which we infer he was prosecuted in some court; that he subsequently withdrew his plea of not guilty and made it a plea of guilty. He was then fined $400.

The further statement he made is that that money was paid by the molders' union. Do you know about that, whether that is true or not? Do you know whether the molders' union had anything to do with that?

Mr. VALENTINE. The molders' union did not do anything in connection with that.

Senator O'GORMAN. Do you know who paid it?

Mr. VALENTINE. No, sir; I do not. I want to say further that I would know if that molders' union paid it——

Senator O'GORMAN. I assume you would.

Mr. VALENTINE. Because my name has to go to the auditor. I would know that.

Senator SUTHERLAND. Has the molders' union an attorney regularly employed?

Mr. VALENTINE. No, sir; we have no regular attorney. I just employed the attorney in this case. We had no attorney.

Senator SUTHERLAND. That was in your own case?

Mr. VALENTINE. That is all, sir.

Senator CHILTON. Is the identity of that attorney of record known? Does it appear who that was? Does that fact appear any place?

Mr. VALENTINE. The record does not show it.

Senator CHILTON. You do not know who it was?

Mr. VALENTINE. Yes, sir; I do.

Senator CHILTON. Who was it?

Mr. VALENTINE. Raymond Radcliffe, of Cincinnati, was my attorney.

Senator CHILTON. These minutes here say "molders' union attorney of record."

Mr. VALENTINE. What this article says and what the facts are are different things.

Senator CHILTON. You do not know that this refers to Mr. Radcliffe?

Mr. VALENTINE. I do not know that; no, sir. I only know I employed him as attorney, as an individual.

A bell here rang announcing a vote in the Senate.

The CHAIRMAN. The committee will have to suspend. Does anyone else wish to be heard?

Mr. GOMPERS. Mr. Frey, of Cincinnati, is here. It will only take a few minutes for him to make his statement.

The CHAIRMAN. We will have to go to the Senate Chamber and vote, but we will return immediately after the vote.

Thereupon, at 1.15 o'clock p. m., a recess was taken until 1.30 o'clock p. m., after which the hearing proceeded, as follows:

STATEMENT OF MR. JOHN P. FREY.

The CHAIRMAN. Give the reporter your name, address, and occupation.

Mr. FREY. John P. Frey; editor of the International Molders' Journal and one of the executive officers of that organization; Cincinnati, Ohio.

Mr. Chairman and members of the committee, our organization has taken a peculiar interest in the hearing of this committee so far because our name has been injected into the record by an attorney representing the National Founders' Association. A so-called record of time was introduced in the hearings before the House Committee on the Judiciary, and the same record has now been introduced in the hearings before this committee.

Senator O'GORMAN. At what page is that?

Mr. FREY. I believe it is in the exhibits or appendix marked "Part 2," beginning on page 93. The title is:

A policy of lawlessness—Partial record of riot, assault, murder, coercion, and intimidation, occurring in the strike of the iron molders' union during 1904, 1905, 1906, and 1907.

This is taken from the report of the president of this National Founders' Association which he made to his convention in 1908.

Senator SUTHERLAND. That runs on to page 199?

Mr. FREY. Yes, sir.

This record has been fully answered previously in various forms, but not before this committee, and I certainly have no intention and no desire to make any effort to answer any of the statements made in that record. I prefer instead to occupy the few moments that will be at my disposal this morning to call attention to the fact that this organization of foundrymen has for years endeavored to cripple and handicap our activities by securing or having their members, with the advice of their attorneys, secure injunctions which would restrain us from doing anything which would be of assistance to us in our effort to secure improved conditions of labor. They have at times succeeded in securing injunctions which not only restrained us from doing anything which would assist us in winning our fight, but at the present time, in the city of Chattanooga, Tenn., they have, or one of their members has, secured an injunction that restrains any of our members and the officers of our union from accepting into our organization any of the employees of the firm of this National Founders' Association that applied to secure the injunction.

In other words, they have had injunctions issued or have secured injunctions which, first of all, restrained us from doing what would assist us to win our strike and secure higher wages or shorter hours of labor, and then they have gone further and succeeded in instances which may be cited, and in the instance which I cite now of Chattanooga, Tenn., in restraining us from taking into our organization any molder who would desire to join; and at the present time three of our members are under contempt proceedings—although we have appealed the case to a higher court—because they took into our organization certain molders who wanted to join.

Senator SUTHERLAND. In what court was that?

Mr. FREY. The State court.

The CHAIRMAN. Was it the State court or the Federal court?

Mr. FREY. The State court.

Senator O'GORMAN. What was the ground alleged upon which the injunction was based?

Mr. FREY. The alleged ground is that if these men join our organization it would work to the injury of the plaintiff's business, because if they join our organization they might desire to secure higher wages.

Senator O'GORMAN. Has a permanent injunction been granted in that case?

Mr. FREY. Yes: a permanent injunction, because we did not appeal from it.

The CHAIRMAN. What is the title of the case?

Mr. FREY. Ross Mahan Co. applied for the injunction. I do not know what the title of the case was, but the injunction was issued by the court of equity in the city of Chattanooga.

Senator CHILTON. It is probably not a reported case.

Senator SUTHERLAND. Have you a copy of the report?

Mr. FREY. I have not.

Senator SUTHERLAND. Can you furnish us a copy?

Mr. FREY. I will be only too pleased to furnish you with a copy, because I have one in my office.

The CHAIRMAN. We will be glad to have you send that to the clerk of the committee, so it may be incorporated in the record.

The papers referred to are as follows:

In the chancery court at Chattanooga. Ross-Meehan Foundry Co., a corporation, resident of Hamilton County, Tenn., complainant, *v.* Nick Smith, John Nutt, Denis Murphy, Walker Morrison, Will Hicks, and Walter Leonard, all residents of Hamilton County, Tenn., and Local Lodge No. 53, Iron Molders' Union of North America, a voluntary association, with offices at Chattanooga, Tenn., defendants.

To the Hon. T. M. McConnell, *Chancellor, etc.*

Complainant, the Ross-Meehan Foundry Co., respectfully represents:

(1) That it is a corporation organized under the laws of Tennessee and having its situs at Chattanooga, in said State. It owns and operates a large plant on Carter Street, within the corporate limits of Chattanooga, and is engaged in the making of malleable-iron castings and all kinds of gray iron castings. For this purpose it now employs, and has employed for a number of years, about 300 men. Complainant has contracts with various parties in the State of Tennessee and elsewhere to furnish such castings, and unless it can be protected in its right to do so it will be made to suffer irreparable loss.

(2) Defendant Lodge No. 53, Iron Molders' Union of North America, is a voluntary association of individuals and consists of a union of certain persons who are by trade iron molders and who live in the city of Chattanooga and work there. Said local association is affiliated with and is a part of a national association made up of similar organizations. Said association is unincorporated, has no property, and a judgment at law against it can not be collected.

The other defendants mentioned herein are members of said association or lodge, and until recently all of them were employees of your complainant, with the exception of the first-named defendant, Nick Smith. Said Nick Smith is a traveling representative of said Iron Molders' Union. The title of his office your complainant knows not, but his business is to travel over the country to form organizations of the kind above mentioned, to "unionize" shops, to bring on and produce strikes, and to do all other things that may be necessary to accomplish the purpose of such organizations whenever in its wisdom some plant like that of your complainant is picked out as their victim.

(3) Your complainant operates what is known as an open shop; that is to say, it employs its own men without regard to whether they belong to unions or not. In other words, when one applies to complainant for a position as molder, your complainant only considers the question of his personal fitness and pays no attention to whether he belongs to a union or not. As a matter of fact, practically all of the shops in this city are operated along the same line. In this way, until now, some of the molders employed by complainant have belonged to the union and some have not.

(4) It seems, however, that during the present year the officers of the National Iron Molders' Union of North America concluded that the shops of Chattanooga should no longer be operated as open shops and that the latter should be "unionized," and managed and conducted by what is known as a "committee." This "committee," as your honor knows, is composed of the members of the local union, or employees of the shop, and are therefore the ones who under the plan above mentioned are intended as the practical managers of complainant's property.

For the purpose just indicated, it seems Defendant Nick Smith was elected. He came to Chattanooga several months ago, and since that time has been employed in the execution of the trust imposed upon him. He has been visiting the various shops in the community, using all means at his command to induce the nonunion men therein to join the union. Heretofore the unions have refused to admit to membership persons of color. Recently, however, this rule has been abrogated, at least in the South, and it has been the particular object of the efforts of said Smith to interest, as far as possible, the colored molders of this city in his enterprises. In this way he has been busily engaged for some time in bringing pressure to bear upon all the nonunion employees of your complainant, and especially on those of the colored race. Within the last month or two the said Nick Smith has succeeded in starting strikes at three of the prominent factories in this city. A short time ago your complainant had a contract to make and to furnish to the Chattanooga Implement & Manufacturing Co., one of our large local concerns, certain iron castings. After this contract was made it seems the said Smith, as agent and representative of said union, succeeded in bringing on a strike at said plant. Complainant, in the performance of its contract aforesaid, proceeded to have made at its shop certain castings called for under said contract. The strike above mentioned, however, having been begun, certain of the union men in complainant's gray-iron foundry

refused to do the work in question upon the ground it was being done for a scab shop. As these several molders thus refusing to work were no longer of any use to your complainant, they were of course discharged. Later the said Smith and his coconspirators, having succeeded in inducing other of the complainant's employees to join the union, proceeded to urge other employees of complainant to do likewise, and to accomplish this purpose not only threatened the employees themselves with disastrous consequences should they fail to obey his or their mandates, but openly announced it was their purpose to coerce your complainant and to force your complainant to make its shop a union shop, to the end that not only no nonunion men might thereafter work at said shop, but to the further end that the future employment and discharge of molders there and the general operation of the shop should be controlled by a committee of their own selection. Because the defendants aforesaid refused to desist in their efforts and in the threats above mentioned they in turn were told that your complainant did not need their services.

Within the last few days defendant Lodge No. 53 has, through its proper officers, waited upon your complainant and has threatened that unless before Thursday, December 21, all of the above defendants, with the exception of Nick Smith, are reemployed by complainant, a strike will be declared against complainant's shop, that all union men in said shop will be required to give up their places and that the defendants and said defendant union will proceed to blacklist complainant and to do those things so well known as parts of the warfare conducted under the name of strikes.

Complainant charges that all of defendants individually and the members of said Lodge No. 53, have unlawfully conspired together to coerce complainant into unionizing its shop, to compel the men employed in its shop who are not members of said union to join said union, to take away from complainant its employees, to prevent complainant from employing other molders, and to thus impede, if not to make impossible, all efforts on the part of complainant to carry on and conduct its business in the manner provided under the laws of Tennessee.

Complainant charges that in pursuance to this conspiracy all of said defendants, and especially said Nick Smith, have been upon the premises of complainant and along the streets approaching its premises, have intercepted the men working for complainant, have not only by persuasion but by threats and intimidations sought to coerce the men in complainant's shop to quit their employment with complainant and to breach their contracts of employment with complainant. Since the demands above mentioned were made, all of said defendants have repeatedly stated that unless the demands in question were granted, the strike in question would be proclaimed and said defendants' purpose was not only to require all the union men now employed in complainant's shop to quit work, but to do all in their power to make other persons employed in complainant's shop likewise give up their employment, and to do all in their power to prevent other persons from working at complainant's plant.

Complainant charges that the defendants are men without property, that the damages that complainant will suffer in event the above conspiracy is carried out will be great and irreparable, and there is, therefore, no adequate and complete remedy at law for the rights which will be violated as above described. Complainant therefore charges that it is entitled to the protection of the injunction remedy of this court, and it so prays.

Premises considered, complainant prays:

(1) That all defendants mentioned herein be made parties to this bill by proper process, that they be required to answer this bill, but not under oath, the same being hereby waived.

(2) That a preliminary injunction issue against all of defendants, their agents and employees, restraining them and each of them from declaring a strike against complainant; from interfering in any manner with any of the employees of complainant on the premises of complainant or when going to or returning from work at said premises; from interfering, by threats, intimidation, or persuasion, with the employees of complainant, and thereby depriving complainant of the right to have said employees carry out their contracts with complainant; and from in any manner interfering with the right of complainant under the law to conduct its business in the manner which the law provides.

(3) At the hearing let the preliminary injunction be made permanent.

(4) Complainant prays for general relief.

This is the first application for extraordinary relief in this cause.

ROSS-MEEHAN FOUNDRY CO.,
By G. F. MEEHAN, *President.*

WILLIAMS & LANCASTER, *Solicitors.*

STATE OF TENNESSEE, *County of Hamilton:*

G. F. Meehan, under oath, says that he is the president of complainant, the Ross-Meehan Foundry Co., and that the facts stated in the foregoing bill are true of his own knowledge.

G. F. MEEHAN.

Subscribed and sworn to before me this 21st day of December, 1911.

SAM ERWIN, *C. and M.*

To the C. and M.:

Issue injunction as prayed upon complainant giving bond conditioned as required by law in the penal sum of $1,000. This December 21, 1911, at 9.35 a. m.

I. M. MCCONNELL, *Chancellor.*

(Indorsed:) Filed 21st of December, 1911. Sam Erwin, C. and M., by P. E. McMillan, D. C. and M. A true copy: Sam Erwin, C. and M., by P. E. McMillan, D. C. and M.

Mr. FREY. By the way, Mr. Gompers, you have a record in a recent issue of the International Molders' Journal at your office. It is in the March issue, I think, of this year.

Mr. GOMPERS. I will see if I can get it.

Mr. FREY. The particular thing, gentlemen, is this: That this International Founders' Association that has come before you with this alleged record of lawlessness has for a number of years employed private detectives and private detective agencies for the purpose of manufacturing evidence and securing injunctions as a result of evidence presented through these detectives. When it has been necessary for some overt act to be committed, they have employed these private detectives and a corps of professional strike breakers, that they employ under annual contract, to create these disturbances.

A number of men who have been in their employ under contract are men who have not once, but on numerous occasions, been found guilty of crimes ranging from ordinary distrubance of the peace to shooting with intent to kill; and these same employees, after having been found guilty of these crimes, have remained in the employ of this International Founders' Association or of the members of the International Founders' Association, and have been sent to another city, where they have repeated their same methods of creating disturbances, of manufacturing evidence that would enable the attorneys of the International Founders' Association to appear in court and secure the injunctions.

They have indulged, gentleman, in criminal conspiracy. They have gone about this work deliberately, and it has been exceedingly difficult for us to do more than surmise what was going on, and difficult for us to secure that form of evidence which we would feel free to base the statement upon that they have deliberately employed these methods, with the result that their employees have been killed—or, rather, our members have been killed by their employees; that their attorneys have defended those who killed our employees, and that in certain cases they have been forced by the courts to admit that they were responsible for the death of the members of our union through assault by their hired employees, and those men who have not been engaged to work as molders during a strike, but engaged for the sole purpose of creating a riot, intimidating the members of the molders' union, and manufacturing evidence that would be used in order that injunctions might be secured.

My statements are quite positive in this matter, and I make them upon the best of evidence. I have here a statement which has been prepared entirely from the court records, not hearsay, not what we

may think about the matter, but these are excerpts from court records in which the criminal conspiracy of members of the International Founders' Association, the criminal knowledge of that same association, and the criminal knowledge of their attorneys that this was going on, is presented.

The evidence not only shows this criminal conspiracy on the part of the members of the National Founders' Association, of its attorneys, and of its members, but it also shows that these employees, these brigands, these Hessians of theirs, after being found guilty or after committing some of their crimes, have been shipped out of the city for a few weeks, until things died down, and were then brought back again; that these men have continued in the employ of the association and, with the private detective bureau which has been employed by this National Founders' Association, which has been advised in its doings and in its actions by Mr. Monaghan, who has said so much before this committee about our organization, have continued in the employ of this National Founders' Association, and long after members of the association had admitted in court and paid the damages for deaths caused to our members by the brutal slugging of their hired men.

I desire to offer this record, which is compiled primarily, but not wholly, from court records as evidence for this committee to consider.

The CHAIRMAN. That will be received if there is no objection.

HISTORY OF A CRIMINAL CONSPIRACY AGAINST UNION WORKMEN—LAWLESS METHODS OF EMPLOYERS UNCOVERED THROUGH COURT RECORDS.

[By John P. Frey.]

On February 19, 1907, Peter J. Cramer, of Milwaukee, Wis., a member of the iron molders' strike committee, was murderously assaulted by private guards and strike breakers in the employ of the Allis-Chalmers Co. Death did not follow immediately, but on December 10, 1907, he died as the result of the injuries received.

His was not the only case where members of the International Molders' Union of North America, on strike in Milwaukee, Wis., during 1906–7, were murderously assaulted by private guards and strike breakers, but it was largely through this case that it was made possible, through the courts, to uncover the widespread conspiracy through which employees of the National Founders' Association, the Allis-Chalmers Co., and other foundrymen in Milwaukee were engaged in a series of lawless acts extending over a year or more, which had for their purpose the beating up of striking molders and the intimidation of those friendly to the strikers' interests, as well as to create disturbances which could be used as grounds for the granting of injunctions against the strikers.

Previous to Cramer's death suit for damages was entered against the Allis-Chalmers Co., George C. Forgeot, F. C. Herr, Henry Beigel, J. M. Nolan, William Buelow, Ray Field, Dan Jones, Frank Seider, and Harry Clair for the assault committed upon him. After his death the suit was prosecuted in the name of his wife, evidence being taken at various hearings before a court commissioner of Milwaukee County, Wis.

The Allis-Chalmers Co., realizing the weight of conclusive evidence accumulating against them, offered a settlement out of court, which was accepted within the last month.

Every effort was made to prevent publicity in connection with the case and to keep the evidence and court records from being exposed. The attorney for Peter Cramer's widow, Mr. W. B. Rubin, who has for years been the attorney in Milwaukee for the International Molders' Union, had agreed to refrain from giving the details of the case publicity after the Allis-Chalmers Co. had made the financial settlement. It became necessary for a representative of the International Molders' Union to visit Milwaukee in order that the court records could be examined, not only in connection with the Cramer case, but also in connection with the many instances of aggravated assaults and lawless acts committed by contract strike breakers of the National Founders' Association and employees of some of the foundrymen whose shops had been struck an May 1, 1906.

The court records of Milwaukee contain a mass of evidence which exposes the widespread conspiracy on the employers' part during the molders' strike of 1906–7, to break the strike through the employment of professional sluggers and gunmen, and the services of thugs, many of them with criminal records, to work in the struck shops as strike breakers.

A complete list of the assaults upon union molders is not obtainable, but they numbered over 200, as shown by the union's attorney's books. In most instances those guilty were never apprehended, as they left the city immediately afterwards, as the result of what at times savored of collusion with the local authorities. But Attorney W. B. Rubin was successful in the majority of cases where arrests were made in securing convictions. From the records of the district court of Milwaukee the following list of convictions has been secured. It is not complete, but it is sufficient to supply evidence of the conspiracy and to indicate that month after month the thugs employed by the Allis-Chalmers Co. and other foundrymen, or under contracts with the National Founders' Association, continued to assault and intimidate union molders:

June 7, 1906: Charles Wells, convicted for carrying concealed weapons.

July 9, 1906: Walter Dages, convicted for discharging firearms.

August 17, 1906: John Anderson, convicted for slugging Joe Markut, one of the molders on strike.

September 5, 1906: Jacob Czepluch, Joseph Schaefer, and John Ray, convicted for carrying concealed weapons.

September 10, 1906: Joseph Blair, convicted for disorderly conduct toward strikers. George Williams plead guilty to assault and battery upon a union molder.

September 12, 1906: John Lea and John Burns, convicted for discharging firearms.

September 25, 1906: Peter Adjactar, convicted for pointing revolver at Walter Andrzcjeuski, a union molder.

September 26, 1906: John Gallagher, convicted for carrying concealed weapons. Thomas Felz, convicted for pointing revolver at Anton Buckowski, a union molder.

September 28, 1906: Louis Krulikowski, convicted for using abusive language toward Paul Weiler, a union molder. Andrew Rodoczewski, convicted for carrying concealed weapons.

October 8, 1906: John Biskon, convicted for pointing revolver at union molders.

October 19, 1906: Edward Van Clere, convicted for carrying concealed weapons.

October 20, 1906: John Haydak, convicted for carrying concealed weapons. Anton Retieschak, convicted for slugging union molders.

March 7, 1907: Ray Field, Harry Clark, Dan Jones, and Frank Seider, tried for the assault upon Peter Cramer. Frank Seider was found guilty. It was this assault which caused Peter Cramer's death.

March 12, 1907: ——— Guaeppi and ——— A'Loze, convicted for carrying concealed weapons and assault and battery upon union molders.

March 13, 1907: C. W. Rowe, convicted for carrying concealed weapons.

April 18, 1907: P. Walker, convicted for disorderly conduct toward union molders. W. Claire, convicted for disorderly conduct toward union molders.

May 9, 1907: John Czrwmski, convicted for assault and battery on a union molder.

May 17, 1907: Demetra Kotschis, convicted for carying concealed weapons.

May 25, 1907: John Mitchell, Charles McKay, and John Scherer, convicted for assault upon Thomas Morehead, a union molder.

May 31, 1907: Charles McKay, convicted for assault and battery upon a union molder.

June 1, 1907: Arthur Autonopolis, convicted for carrying concealed weapons.

June 27, 1907: J. Kennedy, convicted for carrying concealed weapons.

July 27, 1907: James Feyrer and Ernst Hernstine, convicted for carrying concealed weapons.

August 14, 1907: Bolebaus Wubebski, convicted for pointing revolver at union molder.

September 4, 1907: Don Moribik, convicted for pointing revolver at union molder.

October 11, 1907: John Strzyzewski, convicted for pointing revolver at union molder.

October 12, 1907: William Koenig, convicted for disorderly conduct toward union molder.

November 13, 1907: Dan Johnson, convicted for assault on Nels Petersen, a union molder.

December 26, 1907: John Pewlak, convicted for disorderly conduct toward union molder.

On October 29, 1907, Ira Conrad was found guilty in the municipal court of assault with a dangerous weapon, having shot Frank Loreck, one of the union molders, in the leg.

These court records not only demonstrate that the slugging was carried out systematically, but they prove that some of the attacks upon union men, and particularly upon the members of the strike committee, were carefully planned beforehand.

Peter J. Cramer and Attorney W. B. Rubin knew that a price had been placed on Cramer's head, and that he and others had been marked for brutal assault several months before he received the injuries which caused his death, for sluggers had been brought to Milwaukee for this special purpose by the Burr & Herr Detective Agency, who at that time were supplying guards to the Allis-Chalmers Co., and who had for several years been employed by the National Founders' Association in connection with molders' strikes.

The fatal assault upon Peter J. Cramer occurred on February 19, 1907, but in November, 1906, Herr had gone to Chicago to secure two men whose only work was to beat up the leaders of the local molders' union. He brought back with him William O'Connor and Martin McGarry, who later testified that they received $20 per day for their services, and they were to be continued at this rate.

They were taken over the city by Herr, who pointed out the union men who were to be slugged, and were also given a list containing the names of these men. Suspicions were aroused at their presence in the city, and they were arrested a few days after their arrival by city detectives, while Herr was handing over some of their wages to them. When arrested, the list of names of the men who were to be slugged was found in their possession. Owing to the influence of local authorities no warrants were issued against them, and after remaining in jail over night the two sluggers were escorted to the depot by a lieutenant of police and forced to leave the city, while Herr was allowed to go without further action, the statement being made that he had done valuable work for the employers and was a reliable man.

There had previously been a number of serious assaults committed by Burr and Herr's guards and National Founders' Association strike breakers, and had the local authorities set their face against the lawless methods being carried out by the foundrymen at this time, Cramer's life would not have been sacrificed. But the local authorities seemed unwilling to interfere with the foundrymen's plans or with Herr's operations, and the sluggings continued for almost a year afterwards. In fact, long after Cramer's assault murderous attacks were made by the so-called guards and strike breakers upon union molders.

Many of these attacks were of a particularly cowardly and brutal nature, several of the guards attacking a single molder, as in the case of James Harvey, one of the striking molders who was assaulted by Arthur Holt, Jack Barr, and Michael Hawkins.

In March, 1907, Mr. W. B. Rubin, the molders' attorney, succeeeed in uncovering a part of the conspiracy to slug union men and otherwise break the law, and in order to bring the matter into court action was brought in the circuit court of Milwaukee against the Allis-Chalmers Co., George C. Forgeot, the company's manager, Henry Beigel, the foundry foreman; F. C. Herr, of the Burr & Herr Detective Agency, J. M. Nolan and William Buelow, two of his guards; and Ray Field, Dan Jones, Frank Seider, and Harry Clair, sluggers and strike breakers employed by the Allis-Chalmers Co., some of these men being also contract men with the National Founders' Association according to their testimony.

Some idea of the methods adopted in this criminal conspiracy is afforded by the testimony of the guard Buelow, given before Court Commissioner Kanneberg, of Milwaukee, on April 13, 1907, which was, in part, as follows:

"Q. Do you know Mr. Herr?—A. Yes, sir.

"Q. Who is he?—A. He was my former employer.

"Q. He is a member of the detective agency of Herr-Burr?—A. Yes; of the Herr-Burr Co. I worked for Mr. Herr at different periods for about 8 months—between 8 and 10 months—as a guard. I also worked for him at the American Bridge Co. There was a strike on then—the ironworkers' strike.

"Q. Were you ever arrested and convicted for any assaults?—A. Yes, sir, I was.

"Q. Were you arrested and convicted for assault during the strike upon any striker?—A. I was.

"Q. And while employed by Herr-Burr Co.?—A. Yes, sir.

"Q. Did you have counsel in the case?—A. I did.

"Q. Who appeared for you?—A. Mr. Donovan.

"Q. Who employed him?—A. Mr. Herr, I believe. I was taken down there (to Mr. Donovan) by Mr. Herr shortly after the arrest; a week or so after the arrest.

"Q. You knew there was a warrant out for you, did you not?—A. Yes, sir.

"Q. You disappeared for some time?—A. I went to Chicago for a time; yes, sir.

"Q. Why did you go to Chicago?—A. I was told to.

"Q. By whom?—A. By the Herr-Burr Co.

"Q. Were you paid by Herr while you were in Chicago?—A. I was.

"Q. Were you instructed by anybody to come back to Milwaukee?—A. Yes; I was told by Mr. Burr to come back to Milwaukee.

"Q. Do you know a striker by the name of James Harvey?—A. Yes, sir.

"Q. Were you present at an assault upon Harvey?—A. I was.

"Q. Do you know who assaulted him?—A. I do.

"Q. Who?—A. There was a man named Arthur Holt and Jack Barr and Michael Hawkins.

"Q. State what they did, if you saw them do anything.—A. The first I saw I heard a man holler and I saw Harvey run over in between the cars that were used as boarding and lodging houses at that time for the guards as well as for the nonuniron ironworkers. The next man following him was Barr, and he struck Harvey over the head with a club of the size of a regular policeman's club that they use down town here, a club about 2½ feet long, making the blood flow freely. Then Hawkins came after and struck him a blow over the head with a club and several blows on the body."

It seems that one of the guards resented the assaulting of innocent union men, and Herr talked to him, and he heard this guard say that the man that done that and beat up that man ought to be hung to the first telegraph post that they came to.

"Q. What did Herr say?—A. He discharged him.

"Q. Do you know a striker named Krelowitz?—A. Yes, sir.

"Q. Was he a molder?—A. Yes, sir.

"Q. Was he assaulted at the strike during the molders' strike?—A. Yes, sir. I was told by Mr. Herr that in case we were arrested there would be an attorney furnished to us; also our fines paid in case there was any.

"Q. Do you know guards that were arrested during the molders' strike?—A. Yes, sir.

"Q. What guards?—A. There was myself, John Krunkie, and Charley Roe.

"Q. Is that the name of the Chicago policeman that was recently fined for carrying concealed weapons?—A. Yes, sir.

"Q. Is Mr. Roe still working for the Herr-Burr Agency?—A. He was the last I knew of him.

"Q. Did you ever talk with Mr. Beigel, the foreman?—A. I did.

"Q. What did you hear them say?—A. He offered me and Krunkie $5 if we went out and beat up Krelowitz.

"Q. What else did he say?—A. In case we were arrested and fined that he would pay the fine or see that it was paid.

"Q. Did Mr. Beigel tell you in case you did not want to do it yourself to hire somebody else?—A. Yes; to hire somebody else."

There was a strike breaker named McBride who was suspected of being a union man, and an effort was made to have him beaten up by union men and then have them arrested for assault and battery. The plot fell through, but was uncovered during Beulow's testimony, which on this matter was as follows:

"Q. Tell us what Beigel said.—A. Beigel told Nolan and I to take McBride out and get him drunk and steer him up against some of the union men and have them beat him up.

"Q. What did you do?—A. We escorted McBride out of the gate and took him to the bar, and bought two or three drinks for him. Nolan then stepped to the telephone and called up Hyde's place, a saloon at West Allis, and called for Krelowitz and told him that there was a man down at Hughes's, a nonunion man, and for them to come down and trim him up.

"Q. He was not beaten up?—A. No, sir.

"Q. He was discharged after that?—A. He was discharged after that.

"Q. Who gave you money to buy him drinks?—A. Mr. Beigel.

"Q. I will now go back to the time Harvey was beaten up. Did any of the men carry revolvers?—A. They all carried revolvers.

"Q. Did he (Marshal Braunschweiger) search some of your men for revolvers?—A. He did.

"Q. What became of the revolvers?—A. They were given to understand to put them away.

"Q. By whom?—A. By some of the men that had us in charge. Some of the guards carried revolvers.

"Q. What, if anything, did Mr. Forgeot say to you?—A. He asked me whether everything was all right, and I told him it was so far. He then said, 'If there is any trouble go right into them, and clean them up, and if there is any fine to be paid, we will pay it, and see you through on it.'

"Q. When Beigel wanted you to do up Krelowitz, did he mention any other molders to do up?—A. No, sir.

"Q. Was not Cramer's name mentioned?—A. Mr. Cramer's name was mentioned by Mr. Forgeot.

"Q. What did he say?—A. If I did anything it would be a good thing if I cleaned him up.

"Q. Did he say what he would do for you if you cleaned him up?—A. No, only that he would see me through and pay my fine.

"Q. Were you offered a reward in case you cleaned him up?—A. I was not offered a reward by anybody else, only from Beigel.

"Q. Did Mr. Forgeot mention anybody else's name besides Cramer's?—A. Union molders in general, that is all. Mr. Nolan had charge of the guards.

"Q. Did Mr. Nolan ever talk to you as to what treatment to accord strikers?—A. He came up different times and told us if any came our way to go after them and clean them up, as he expressed it—that we would be taken taken care of.

"Q. You were arrested for assaulting a union molder by the name of Sieger?—A. Yes, sir.

"Q. You were witness against Sieger in a case in which he was defendant for assaulting a nonunion man; am I right?—A. Yes, sir.

"Q. Sieger was acquitted?—A. Yes, sir. Mr. Herr found out that Sieger was done up through Mr. Nolan.

"Q. How did it happen that you three jumped on to him at the same time?—A. Mr. Roe sent into the foundry after myself and Mr. Krunkie. We went to the office, what is called the west gate, and Mr. Roe was on the platform. He says 'Sieger is here. There are two others; they have been abusing me all the afternoon. I have told Sieger to get off the platform and he would not get off.' I went up to Sieger and I said 'I want you to get off the platform.' A few words were spoken and we came to blows, and I put him off the platform.

"Q. Did you, after the fight, leave town?—A. I went to Chicago.

"Q. Who else left for Chicago besides you at that time?—A. The three of us.

"Q. Under whose directions?—A. Mr. Herr's directions. Mr. Nolan came up and told us that we should leave town.

"Q. Did you see Mr. Herr in Chicago when you got to Chicago?—A. I saw Mr. Burr.

"Q. What did Mr. Burr say to you?—A. He told us to stay around Chicago a day or two. When I came back from Chicago, Mr. Forgeot asked me when I came back.

"Q. Did Mr. Forgeot say anything to you about next time doing a better job?—A. Yes; Mr. Forgeot has told me that on two or three different occasions. Mr. Forgeot told me to go after any of them and make it my business to put Cramer out if I could.

"Q. Who went your bail?—A. Mr. Herr went our bail. We received instructions from Mr. Herr to do anything that Nolan tells us."

His testimony is otherwise replete with many sensational statements, but neither time nor space will permit any more, and sufficient has been reproduced to indicate the conditions which existed.

The murderous assault upon Cramer was witnessed by a strike breaker, Kirby Fines, who was also under contract with the National Founders' Association and who was examined on August 28, 1907. In part Fines's testimony was as follows:

"Q. Do you know Peter J. Cramer, the plaintiff in this case?—A. Yes; I have known him pretty near a year.

"Q. Do you know whether he is a striking molder or not?—A. Yes; I do.

"Q. Do you remember the day he was assaulted?—A. Yes, sir; 19th day of February, last year, 1906.

"Q. 1906?—A. I mean 1907.

"Q. Now, what time of the day did this happen?—A. Just at noon. I was working in the center on cylinders.

"Q. Center what?—A. Center floor.

"Q. Now, while working on that floor did you see Beigel there shortly before noon?—A. Seen him two days before this happened; in fact, three days before this happened I knew it was coming off. Beigel wanted to give Cramer a lick; he said Cramer was the instigator of all the trouble, and he would stand good for the fine and costs.

"Mr. SPENCE. I object to statements of conversations of Mr. Beigel on behalf of all of the defendants except Mr. Beigel.

"Examination continued by Mr. RUBIN:

"Q. As near as you remember, can you tell us the exact words used by Beigel?—A. Beigel made the statement that if we get after Cramer and give him a good beating he would stand for the fine and costs.

"Q. On the day Cramer was assaulted——

"Mr. SPENCE. I object to the use of the word 'assaulted.'

"Question withdrawn by Mr. Rubin.

"By Mr. RUBIN, continuing:

"Q. On the day this happened, did you see Beigel in the shop?—A. Yes.

"Q. What time?—A. Just about five minutes before 12.

"Q. What did Beigel do in the shop?—A. Can't just recollect, but I saw him and Nolan talk together and I saw him get the bunch together to go after Cramer next to the door.

"Mr. SPENCE. I object to statements as to what they were going to do and insist upon witness stating just what he saw.

"By Mr. RUBIN, continuing:

"Q. What did you see?—A. I saw Nolan and Beigel, I mean Clair, talk together, and then I saw Nolan get the bunch together and take them next to the door to wait to get outside.

"Q. Next to what door?—A. So as to get out to 60th Street, out to Jack Haynes's place.

"Q. How many men did he take?—A. There must have been about eight or nine; I could not say exactly.

"Q. Where did those men go?—A. They went outside that gate—just outside of the cleaning room—chipping room—and got pieces of pipe about that long [indicating about 2 feet], and they went out there and that's where I got mixed into it.

"Q. After they stood behind the gate, what happened next?—A. They went outside there and there were five of them out there, and four of them ran away—four union fellows—and Pete Cramer, he came across and asked Nolan for protection, and Nolan chased him away and would not have anything to do with him at all.

"Q. What did those non-union men that stood at the gate do?—A. They went outside and got after Pete Cramer, and they began to beat him with those pipes, and he went over to Nolan and asked Nolan for protection——

"Q. Who went over to Nolan?—A. Why, Cramer, and Nolan shoved Cramer away, called him names, and told him to get away.

"Q. Did you recognize some of those men that were in that crowd that got after Peter Cramer?—A. I know Harry Clair and Jones, and all those fellows were in it. I forget just what Jones's first name is; all I know is they got after him and beat him with pipes about that long [indicating about 2 feet].

"Q. What kind of pipe was it?—A. As near as I could tell, it was about half an inch pipe, with a hole in it, about that long [indicating about 2 feet]. There must have been at least five or six pieces of pipe in that bunch.

"Q. What did Jones do?—A. Jones went after him, too. Why, they kept just beating him up as fast as they could and got him down to the middle of the road, and after he got there he ran down the middle of the road and Nolan pushed him away.

"Q. Can you tell us about how many were in that crowd?—A. As nearly as I can tell, eight or nine.

"Q. All hitting Cramer?—A. Yes; every one of them.

"Q. How did those men know when they were to come out?—A. Well, Nolan came after them; put them wise that they were out there.

"Q. How long did those men stay behind the gate?—A. I could not tell; suppose about five minutes.

"Q. How did they know just when to go after Cramer?—A. Nolan told them they were out there just as the whistle blew.

"Q. So, just as the whistle blew they got after Cramer?—A. Yes.

"Q. Did you see Manager Forgeot there before they went out?—A. Yes; I saw him talk to Harry Clair just before they went out.

"Q. Do you know what they talked about?—A. I could not say.

"Q. Was that the same day this happened?—A. Yes; the same day—not over seven or eight minutes before.

"Q. Now, after Forgeot talked with Clair, what did Forgeot do?—A. Went away.

"Q. What happened after Forgeot left?—A. Why, Nolan got the men together."

Not only was this assault most murderous in its character, but it was personally directed by Nolan, chief of the guards, who pushed Cramer away from him when he begged for protection.

This assault was known to the Allis-Chalmers Co. and to the National Founders' Association, but no steps were taken to discharge any of the guards, and they were retained to carry on the work for which they were hired.

The testimony of Kirby Fines is substantiated and made stronger by the testimony of Mr. Forgeot, the manager for the Allis-Chalmers Co., who was examined as an adverse witness in July, 1907. His testimony was, in part, as follows:

"Q. By whom were you told about this fight?—A I think it was reported to me in my reports that I got in the morning.

"Q. How many guards did you employ them to bring?—A. First eighteen—prior to that there were 12, and then there were 18, and then as high as 22. We paid the fines of the men that we considered through the company that they got fined.

"Q. Did you hire attorneys for those men whose fines you paid?—A. I told you our counsel took care of it.

"Q. You had full supervision of the strike?—A. I said so.

"Q. And you arranged the details, as far as you say, for protecting your property, employing guards and everything else?—A. Yes, sir.

"Q. Do you remember talking to anybody after the Cramer assault about 'That Cramer got his all right?'—A. In West Allis?

"Q. Yes.—A. No, sir; I heard a remark that I made, but I can not remember what remark.

"Q. I am asking you if you had made any such remark?—A. I may have stated that the 'Scabboes' got a squarehead, yes, sir; what we call him, squarehead, and Cramer for one of them. I know that our men got a union man named Haas, and I took the man who had assaulted him away from the policemen and told them I would be responsible for the man.

"Q. In what way would you be responsible if he was arrested?—A. Why, I would see that he was taken care of.

"Q. Was not all money expended in the strike reported to you?—A. No, sir.

"Q. Didn't you have to put your O. K. on them?—A. Most of them; yes.

"Q. After Mr. Clair was fined, you took him back into your employment?—A. Yes, sir.

"Q. And after he was arrested on a civil bond, you furnished bail for him?—A. The bail was furnished.

"Q. Do you know that Mr. Buelow, Rowan, and Kunkel were gone for some time and then came back? (In reference to assault upon another striker.)—A. Yes; sure.

"Q. You knew that they had assaulted union men?—A. I heard of it; yes.

"Q. And you took them back in your employment after you had knowledge of that?—A. I know Buelow was taken back."

Mr. Forgeot was also compelled to disclose at the examination on August 12, 1907, a statement showing that the amount of money paid out between August 31, 1906, and June 30, 1907, to the Burr-Herr agency, Chicago, was $21,745.92, that sum including the payment of fines and attorneys' fees to those who slugged union men.

In reference to some of the reports made by the private detectives relative to the beating up of union molders, which were of great importance in throwing light upon the conspiracy, Forgeot said they were destroyed, as indicated by the following evidence:

"Q. These are the only papers by way of reports you received from any source during the strike?—A. Yes, sir.

"Q. You say some of the papers were destroyed?—A. Yes.

"Q. How did these papers come to you, by mail or handed to you?—A. Came by mail.

"Q. Who paid Clair's fine?—A. We did. One of the papers that was destroyed was a report on the Cramer fight.

"Q. Mr. Forgeot, there were up to date some 38 men employed as strike breakers or scabs in the various shops arrested and convicted for carrying concealed weapons and assaults, of which 18 were in your employ at some time or other, is there any reason why reports covering the dates when those men were arrested should be missing from their files?—A. I don't think they would be in their reports there unless it happened on the grounds.

"Q. (Referring to the Herr matter.) Was that the reason why no report should be received for that day?—A. Some days we wouldn't get any; some days we would.

"Q. Do you know, as a matter of fact, that Burr-Herr employed detectives in addition to guards to spy or watch?—A. I have heard that they did that; yes.

"Q. You knew they had union men employed as spies making reports for them?—A. I have understood so; yes.

"Q. What became of those reports?—A. Tore them up."

It is nothing new for corporations to destroy incriminating papers, and that the Allis-Chalmers Co. did this with all reports which dealt with the slugging of union men is not surprising.

But some documents were secured and made part of the court records which prove that the corporation paid the fines placed upon guards and strike breakers by the courts, and later evidence shows that these guards were afterwards retained in their positions. One exhibit is a bill for $50.20, O. K'd by George C. Forgeot, herewith reproduced in full:

[Telephone, Harrison 1192.]

CHICAGO, *December 16, 190–.*

Allis-Chalmers Co., Mr. Geo. C. Forgeot, manager, Milwaukee, Wis., to the Burr-Herr Co., Dr., 226-228 LaSalle Street, Suite 1001.

Legal expenses incurred in alleged assault case wherein Guards Buelow, Kunke, and Rowe were implicated in trying to keep a picket off company property at W. Allis:[1]

Fine and costs of Guard Buelow	$25.20
Fees paid Attorney J. F. Donovan in above case	25.00
	50.20

O. K.

FORGEOT.

A more complete exhibit is the following statement of payments made by the Allis-Chalmers Co. to the Burr & Herr Detective Agency, which is reproduced in full from the court records.

THE BURR-HERR CO.

Statement of the above company's account as it appears on the books of the Allis-Chalmers Co.:

Services and expenses:		Services and expenses—Con.	
May 20, 1906	$393.99	Nov. 30, 1906	$1,848.44
Apr. 30, 1906	149.60	Dec. 28, 1906	1,806.69
May 31, 1906	475.21	Dec. 31, 1906	1,837.14
May 31, 1906	491.21	Dec. 31, 1906	73.95
June 30, 1906	90.00	Jan. 24, 1907	1,077.46
June 30, 1906	169.62	Jan. 31, 1907	977.01
Aug. 31, 1906	402.59	Feb. 21, 1907	813.26
Sept. 27, 1906	1,679.99	Mar. 22, 1907	1,092.95
Sept. 30, 1906	1,785.16	Apr. 30, 1907	617.13
Oct. 29, 1906	1,745.93	Apr. 30, 1907	494.21
Oct. 31, 1906	1,879.49		21,745.92
Nov. 1, 1906	54.65		
Nov. 26, 1906	1,790.24		

I hereby certify that the above statement is a true and correct account of the Burr-Herr Co. as it appears on the books of the Allis-Chalmers Co.

W. A. THOMPSON, *Comptroller.*

July 22, 1907.

We have reproduced lengthy excerpts from the court records, and they may be unnecessarily copious, but in making the serious charge of criminal conspiracy on the part of the Allis-Chalmers Co., other Milwaukee foundrymen, and the National Founders' Association it seems advisable to substantiate this with sufficient evidence to amply support the accusation.

But one more reference to the court records will be given, an excerpt from the testimony of F. C. Herr, for the purpose of proving his connection with the National Founders' Association. On September 7, 1909, he was examined, and in reference to the employment of his detective agency by the National Founders' Association, his testimony, under cross-examination by Attorney Rubin, on this matter, was as follows:

"Q. Where do you say you live now?—A. My furniture is in storage and my family is in Newark, Ohio.

"Q. How long have you lived there?—A. Since about April 15 (1909), this year.

"Q. What has your business been since you left Chicago?—A. I have been doing secret-service work.

[1] The so-termed property of the Allis-Chalmers was the public depot of the Chicago, Milwaukee & St. Paul Railroad at West Allis.

"Q. For whom?—A. Different people.

"Q. In whose particular employ have you been since you left Chicago?—A. I have done some work for the National Founders' Association.

"Q. You are at present employed by the National Founders' Association?—A. No, sir; I am not employed by anybody at the present time.

"Q. When have you last done work for the National Founders' Association?—A. A couple of days back.

"Q. What do you mean—last week?—A. This is Tuesday; Saturday I wound up with them.

"Q. You say you wound up with them. What do you mean by wound up with them?—A. With the particular case I was on.

"Q. You have been drawing pay from the National Founders' Association since you left Chicago for various kinds of work you have been doing for them?—A. Since we have been in business they have been one of our clients.

"Q. Have been one of your clients when you went to work for Allis-Chalmers in Milwaukee?—A. Yes, sir; we worked for the National Founders' Association before we worked for the Allis-Chalmers."

Herr further testified that during the Milwaukee strike he visited the National Founders' Association office in Chicago, Ill., and conferred with Mr. McClintock, the association's commissioner, and other representatives, and also conferred with them in Milwaukee.

With a solid foundation of evidence taken from the court records connecting the National Founders' Association, the Allis-Chalmers Co., and other foundrymen of Milwaukee, Wis., with the numerous and long-continued acts of violence toward union molders, it is necessary to take a wider grasp of the situation which had led to attempted murder, and a general reign of lawlessness for more than a year on the part of the private detectives and strike breakers employed by the foundrymen, many of whom were also contract men with the National Founders' Association.

Previous to the Milwaukee strike, which began May 1, 1906, the National Founders' Association had adopted a spirit of bitter antagonism toward the International Molders' Union. This association had organized a secret service corps, and employed private detective agencies, as indicated by Herr's testimony, and borne out in the president's report to the association's annual conventions, in which at each recurring convention he boasted of the effectiveness of this feature of the association's activities. The National Founders' Association had also recruited a corps of strike breakers, entering into individual contracts with them, which specified the wages to be paid for the period of one year, and requiring the strike breaker to go from foundry to foundry as directed by the officers of the association.

These men were shipped to localities where there was a molders' strike, and used partly to fill the strikers' places, partly to intimidate union molders, and partly to furnish indications of lawlessness, which would enable the foundrymen to secure injunctions restraining the strikers from doing anything which might advance their interests.

In the winter of 1905–6 the association's commissioner, a man named Briggs, had issued a circular to all members of the National Founders' Association, copies also being sent to other foundrymen, informing them that the molders would probably ask for an advance in wages in the spring of 1906. In the circular they were advised to resist any request for higher wages, the closing words reading:

"My purpose in writing is merely to put you and your neighbor on your guards that you may be considering how to deal with this thing when it comes up. In my judgment the best plan to adopt is to keep your fair-minded man well paid and satisfied, *but don't increase any minimum wage rate.* Many of those requests have already been refused, and the only way to prevent a successful outcome of the plan of this union is to *chop it off behind the ears before it gets time to grow.*

"Yours, very truly, "O. P. BRIGGS."

(The italics are ours.)

The cost of living had been advancing rapidly, and in the spring of 1906 the molders in the great majority of foundry centers and towns asked for an advance in wages.

Strikes occurred in a number of cities, and it was evident from the beginning that the National Founders' Association was determined to prevent the molders from securing any advance in wages, and that they hoped in addition to deal a death blow to the International Molders' Union.

Hundreds of circulars and letters issued by the association at that time demonstrate these facts.

The association's greatest efforts were seemingly put forth in Milwaukee, Wis., where a number of foundries, in addition to the Allis-Chalmers shops, had been struck.

Headquarters were opened up and one or more of the association's representatives were almost continuously in the city.

The striking molders were attacked from several points. Many of them were arrested on charges of disturbing the peace, assault, and contempt of court, the molders' attorney, Mr. W. B. Rubin, having defended more than 200 such cases. In over 95 per cent of these the union molders were discharged.

Continuous efforts were being made to aggravate union molders so that they could be charged with lawlessness, and the forty odd cases of N. F. A. strike breakers, sluggers, and private detectives found guilty of crimes varying from carrying concealed weapons to assault with intent to kill, which has been reproduced from the court records, give evidence of the extent to which these men were employed to precipitate breaches of the peace.

There were deeper motives in these tactics, however, than the mere arrest or conviction of a union molder. The National Founders' Association and the foundrymen desired to secure injunctions from the courts, and evidence of lawlessness on the union molders' part was required.

With the small army of thugs and cutthroats—many of whom had criminal records—at their command it was not difficult to present alleged evidence on which injunctions could be secured, and six of these were issued, including one by Judge Quarles, of the United States district court. This injunction was afterwards dissolved through the efforts of Attorney W. B. Rubin.[1]

Finding that the injunctions did not drive the striking molders back to work or disrupt their union, desperate tactics, including the beating up of union men and the maiming of the strike committee, were determined upon.

The brutes who had been hired to do this work were guaranteed protection, and their fines were always paid when they were found guilty.

The majority of those committing assaults upon union molders, however, were never apprehended, for as soon as a murderous job had been done they were shipped out of town and taken care of while away.

Time and again, after a union molder had been slugged, the thugs were complimented for their work and always retained in service, as shown by the record, the only one discharged being the guard who objected to the brutality of the attack upon Harvey, and who for this evidence of humane feeling was discharged by Herr.

This reign of lawlessness and terrorism was maintained for over a year. Guards, spies, and strike breakers were being continuously arrested and found guilty of carrying concealed weapons and committing aggravated assaults, and yet their employers, the foundrymen and the National Founders' Association, made no effort to stop them. Instead the ablest attorneys were employed in their defense, and when found guilty their fines were paid, and they remained at the employment which had been assigned to them.

These tactics are not exceptional on the employers' part during industrial disputes. Unfortunately they have been extensively used, but it has generally been impossible to produce evidence in court, as in this case, which would substantiate the facts, which striking workmen in hundreds of instances have known to be true.

Powerful financial and political influences have shielded the guilty employers while they used their mercenaries in much the same manner as did the barons of feudal times, to carry out their private vengeance.

The press has frequently been a friendly medium through which to tell exaggerated stories of lawlessness on the part of striking workmen, which has been fostered and brought to a head by the agents provocateur hired by the employers.

The case of McBride, already referred to, furnishes an illustration of how some of these things are done. Suspected of being a union molder, he was taken out of the foundry and plied with liquor until stupefied. The detectives then telephoned to a place where some of the strikers were gathered, and, posing as union sympathizers, informed the men that there was a drunken scab in a saloon, and a good opportunity to beat him up. As shown by the court records McBride was not molested, no union man having even gone to the saloon where he was lying in a drunken condition.

The public mind has been filled with reports of union lawlessness, but it has been given no opportunity of knowing the desperate conditions forced upon striking workmen when the employers determine upon the destruction of their union, or of the cunning schemes which are set in motion by agents provocateur, who hope to work

[1] Mr. W. B. Rubin, who was the union's attorney throughout the strike, and who prosecuted the Cramer case to a successful conclusion and secured the evidence which uncovered the criminal conspiracy to beat up and maim union molders, which is now being exposed, succeeded in having Judge Quarles dissolve the injunction which he had issued. This was the second Federal injunction against a trade-union to be dissolved since American judges have issued injunctions, and also the second labor injunction to be dissolved in Wisconsin, the other one having been issued and dissolved by Judge Dick, of the State court, in which case Mr. Rubin was also the attorney for the union affected.

upon the quick temper of some union man and so irritate him that, losing self-control, he commits some breach of the peace.

In the strike which has been considered, no limit short of murder was placed upon the hirelings who were employed by the Allis-Chalmers Co. or the National Founders' Association. They intended to defeat the union molders, regardless of the law and regardless of price.

The record is an unsavory and disgraceful one; but, unfortunately, it is merely a page, similar to many others, which are contained in the records of corporate lawlessness and vengeance when opposition crosses the path.

This history of crime fostered and abetted by foundrymen of Milwaukee and the National Founders' Association, and based upon court records, is an evidence of the extent to which employers will go in their efforts to defeat union workmen struggling to elevate their standard of living.

ABETTORS OF CRIME.

The National Founders' Association and some other organizations hostile toward trade-unionism have for years posed as special champions of law and order. They assert that one of the prime motives for their existence is to secure the enforcement of the law and to preserve the peace.

They retain staffs of attorneys, who among other duties prosecute all alleged lawless acts on the part of union workmen, and assist these attorneys by employing private detectives and large numbers of spies, who in the guise of union men diligently report all that the unions and their officers are doing.

Of the law-abiding purpose of some of these antitrade-union associations, and as to the honesty of their intentions, we know little, but that some of them have used the mantle of law and order to detract attention from their own lawless and desperate acts we have some definite knowledge.

It is necessary in order that the truth should be known, and that a proper estimate may be formed relative to the methods adopted by some of these associations of employers, to draw aside the mask of hypocrisy from one of them, so that it may stand revealed in its true form, and its illegal acts, as attested by court records, called to public notice for the information of organized workmen and the public in general.

For a number of years—to be more definite, from 1904—the National Founders' Association has waged a relentless warfare upon the molders' union.

In its machinery the National Founders' Association included, besides its own staff of officers, the services of trained and able attorneys, private detective agencies, a secret service or spy system of its own, and a group of strike breakers, who have been retained under a form of yearly contract, which among other things provides that they shall go from shop to shop and city to city as directed by the officers of the association.

Among the detectives, spies, and professional strike breakers in its employ were a number of men with long criminal records, and who, while in service, have been found guilty and sentenced for crime, and yet who have been retained in the association's employ.

That some of this group referred to have been used to assault members of the molders' union, and to aggravate them for the purpose of having some quick-tempered man commit a breach of the peace, has been known to many officers and members of our organization for some time. But the evidence of these facts which could be sustained in court were difficult to secure.

It has at last been made possible to connect the National Founders' Association with a long-continued series of acts of lawlessness and violence, some of a murderous character and two of which resulted in the death of members of the I. M. U. of N. A.

When the Milwaukee strike of 1906 occurred practically every struck shop was one operated by members of the National Founders' Association, and this organization was most active in assisting its Milwaukee members.

From the beginning of the dispute it was made evident that desperate efforts were to be made to break the strike. The strikers were being continually assaulted, some of them so seriously as to injure them for life, and it was almost impossible to secure the arrest of the guilty ones.

Private guards and strike breakers swaggered around the plants or in the vicinity of union molders, flourishing revolvers and billies and daring the molders to speak to them. On a number of occasions a group of these thugs would leap upon a single man and beat him to the ground, while the blood flowed from a dozen wounds, and in some instances the leader of the sluggers would stand apart and direct the attack.

The authorities found it difficult and for some known and unknown reasons failed to arrest many of those who had been guilty of these crimes. But through the activity of the union's attorney, Mr. W. B. Ruben, some 40 were arrested during the first year

and a half of the strike, and when brought into court found guilty of crimes ranging from disturbing the peace and carrying concealed weapons to aggravated assault and shooting with intent to kill.

Whether any of those found guilty were discharged by the foundrymen or the National Founders' Association it is impossible to state, for complete evidence on this point is lacking, but it is known that the private guards and strike breakers involved in the most serious assaults were retained in their positions, attorneys being employed to defend them, and their fines paid.

Several times those guilty of these crimes were sent out of Milwaukee for a while and maintained under salary until it was thought safe for them to return, but they returned in time and again took up their lawless work.

During the strike two men were brought to the city by F. C. Herr, of the Burr & Herr Detective Agency, for the sole purpose of beating up the members of the strike committee. They were taken around the city to have these committeemen pointed out to them and were given a list of their names. These men and Herr were arrested a few days after their arrival and before any one had been assaulted by them, but aside from their being sent out of the city by the police authorities no action was taken against them, and Herr was allowed to go free. When arrested the name of Peter Cramer was found on the list in their possession, and about two months later Cramer was assaulted and so severley beaten that he died before the close of the year.

At the time of the arrest Herr was directly employed by the Allis-Chalmers Co. to furnish so-called guards, but he had for some time previous been employed by the National Founders' Association and was still in their employ as late as 1909, according to his own evidence.

During the strike he frequently met and reported to officers of the National Founders' Association, both at their office in Chicago and when in Milwaukee, and his daily reports were open to these officials. They knew that these assaults were occurring; they knew that Herr's men and their own contract men were being found guilty of carrying concealed weapons, of inciting disturbances, and assaulting union molders; yet they did nothing to stop this carnival of crime; they did not discharge those who were the principals in the assaults, and everything was done not only to shield the guilty, but to prevent their conviction.

Before the public the National Founders' Association ranted about the alleged lawlessness of the molders, while behind the scenes they shielded their thugs and allowed them to commit acts of violence and incite molders to acts of reprisal.

Some of the main facts in connection with this wholesale lawlessness and excerpts from the court records of Milwaukee have been presented in the fore part of this issue. The evidence is amply sufficient to place the responsibility, even though the officers of the N. F. A. themselves were not brought into court in connection with the proceedings.

The guilt has been fixed, but that there is much more which should be uncovered is made apparent even from a partial examination of the record.

What there should be is a congressional investigation which would force the National Founders' Association to open its books to the public and place its officers on the witness stand, for it has been an abettor of crime, its methods are most dangerous to the peace of the community, and its inside workings should be more fully exposed.

The CHAIRMAN. Does any other gentleman wish to be heard?

Mr. SPELLING. Mr. Chairman and gentlemen of the committee, I did not expect to come before you so abruptly.

I wish to say at the outset that if I am to be heard it will take considerable time, because I have been examining for the last three or four weeks 400 printed pages of argument or so-called argument in opposition to this bill, and a good deal of it fine print; and while I would like to be heard, I would like to have some understanding about that before I begin.

Senator CHILTON. How much time do you want to occupy?

Mr. SPELLING. Two or three hours.

Senator O'GORMAN. We will take a vote in the Senate on a very important supply bill at 4 o'clock. Would you probably be finished by that time?

Mr. SPELLING. I can proceed, but I could not think of concluding so soon. I will say this to the members of the committee, that I will

not be offended if members of the committee withdraw or if they leave the committee without a quorum or with only one member present or no members at all.

Mr. GOMPERS. Mr. Chairman and gentlemen, before you decide upon your course, may I say that it is my desire to make an argument before the committee, of course, at any time you may determine. I do not know that it is essential to be made at this time, particularly since the course has been outlined that you are not going to make any report to the Senate upon the bill.

Senator CHILTON. When was that outlined?

Mr. GOMPERS. I was advised by the chairman that informally the Senators composing the committee had discussed the matter, and it was the general consensus of opinion that the bill was of such nature and important character that it could not receive the attention of the entire Judiciary Committee nor could it receive the attention of the Senate.

Senator SUTHERLAND. The Senator from West Virginia (Mr. Chilton) has not been here.

Senator CHILTON. I have been sick since the 13th of July and have not been here.

Mr. GOMPERS. I think I am stating it fairly?

The CHAIRMAN. Quite correctly.

Mr. GOMPERS. I feel that I have something to say to the committee and to submit for the consideration of the committee. What I did say a few moments ago before Mr. Valentine addressed the committee was preliminary only, and I have some things to submit to the committee for consideration in support of this bill and in justification of our position that I think deserve the consideration of the committee.

The CHAIRMAN. Mr. Gompers, would you prefer to have us go now and hear argument in favor of the bill, or to let it stand over until next session and take up the argument then? There is a probability we would not be able to finish.

Mr. GOMPERS. I want to make my position perfectly clear. I expressed my regret and my disappointment that the committee reached that conclusion, either officially or unofficially, but effectually; but inasmuch as that conclusion is reached, I do not know that very much can be gained by submitting the argument now.

Senator O'GORMAN. Especially at a time when the attention of the members of the committee is so preoccupied with other matters requiring immediate disposition.

Mr. GOMPERS. In this present legislative situation that may be true; but I have urged that, in my judgment, the Senators have not regarded this bill as of sufficient importance to require attention at this session.

Mr. SPELLING. I would like to make my argument.

Mr. GOMPERS. Mr. Spelling informs me he would like to make his argument, and inasmuch as he has expressed himself as addressing himself to the record for future consideration of the Senators, I think he might have the opportunity, with your consent, to go on.

The CHAIRMAN. Very well. We will hear Mr. Spelling as long as we are able.

Mr. SPELLING. I would like to ask the committee, in case I do not conclude this afternoon, if I can have some kind of hearing to-morrow

or some other day. It is not necessary for all the members of the committee, or even a quorum, to be here.

Senator SUTHERLAND. The Senate is meeting every morning at 10 o'clock, and votes are coming along at frequent intervals, every 10 or 15 or 20 minutes. Matters come up in the Senate that we can not vote on intelligently unless we hear the amendments and hear the discussion upon them, and it may amount to a neglect of public duty to sit here any more; we can not tell.

The CHAIRMAN. For example, as we left the Senate to return here a few moments ago reconsideration of the parcel-post provision of the Post Office bill had just been moved, the Senate proceeding with that. We really think it is a higher duty for us to go up to the Senate and be present during the discussion of that, and be present during the votes that come along from time to time, than it is to sit here for argument in a matter that is not going to be decided until the next session.

Mr. SPELLING. If I do not satisfy myself or the committee at this session, I suppose there will be more time at the next session.

The CHAIRMAN. You may proceed, Mr. Spelling.

STATEMENT OF THOMAS CARL SPELLING, ESQ., OF NEW YORK CITY.

Mr. SPELLING. Mr. Chairman and members of the committee, I come before you to speak in support of what is known as the Clayton injunction bill, at the request of labor organizations, at the head of which is the American Federation of Labor, but feel sure that what I advocate is also for the more general welfare.

This is a very broad question and very important. It is hardly necessary for me to tell wherein its importance consists. The counsel for the opposition have shown you wherein its importance consists from their standpoint. There has not been a phase of the differences between capital and labor but has been exploited by the opposition at this hearing. The records to date, containing exclusively the arguments of counsel in opposition, which I am expected to answer, in addition to explaining the bill, occupy over 400 pages.

There is a vast financial advantage in having the courts protect what is the basis of all these injunctions—the right to do business, so called. They present to the court something called a complaint. It is vague, lacking in legal requisites, full of defects. The judges do not take the time to scrutinize these complaints. Then they get a restraining order, and usually get what is in reality a far-reaching injunction in the first instance that commands or forbids the working people, against whom the proceedings are instituted, to refrain from doing certain things. Some of those things, under some certain circumstances, might be legally and properly forbidden; but using that as a nucleus around which to frame the balance of the restraining order, they forbid them to do not only what is illegal, but what men ordinarily do and are entitled to do as a constitutional privilege.

These are some of the abuses that are an indication of that condition to remedy which this bill is intended.

What the courts do, or some of them—I do not indict all the courts—even where the court has undoubted jurisdiction, is to enact a species of legislation. That is the very nature of an injunction.

I will read to you what Justice Baldwin, of the Supreme Court, said about that in Bonaparte *v.* Railroad Company (217 Fed. Cases, 1617):

There is no power, the exercise of which is more delicate, which requires greater caution, deliberation, and sound discretion, or is more dangerous in a doubtful case, than the issuing of an injunction. It is the strong arm of equity, that never ought to be extended unless in cases of great injury, where courts of law can not afford an adequate or commensurate remedy in damages. The right must be clear, the injury impending or threatened, so as to be averted only by the protective preventive process of injunction; but that will not be awarded in doubtful cases, or new ones not coming within well-established principles, for if it issues erroneously, an irreparably injury is inflicted for which there can be no redress, it being the act of a court, not of the party who prays for it. It will be refused till the courts are satisfied that the case before them is of a right about to be destroyed, irreparably injured, or great and lasting injury about to be done by an illegal act.

That is in a case when the court has undoubted jurisdiction to issue an injunction—this legislation. It is proposed in this bill to provide certain safeguards at the very outset when an injunction is applied for. That is in the first section. These provisions to limit and restrict the courts and provide specific procedure are not as strict as those provided in the Constitution, in the rules of either House of Congress or any legislative body, to govern Senators and Members of either House in the enactment of legislation regularly enacted. As the present law stands, there is no provision, either in the statute or elsewhere, to govern or limit the courts in this matter of procedure, to prevent abuses in the matter of issuing injunctions and restraining orders.

It is certainly legitimate and proper, even in a proper case, that the courts should be restrained and controlled by specific legislation, because when an injunction goes out in a labor dispute against strikers, it indicates that some great judicial authority has examined the merits of the controversy between the parties and decided against one party, and it has a disastrous effect in the very nature of things.

PROVISIONS OF CLAYTON BILL.

I read now section 263, being a part of the first section of the bill, with which you are all familiar:

SEC. 263. That no injunction, whether interlocutory or permanent, in cases other than those described in section 266 of this title, shall be issued without previous notice and an opportunity to be heard on behalf of the parties to be enjoined, which notice, together with a copy of the bill of complaint or other pleading upon which the application for such injunction will be based, shall be served upon the parties sought to be enjoined a reasonable time in advance of such application.

But if it shall appear to the satisfaction of the court or judge that immediate and irreparable injury is likely to ensue to the complainant and that the giving of notice of the application or the delay incident thereto would probably permit the doing of the act sought to be restrained before notice could be served or hearing had thereon, the court or judge may, in his discretion, issue a temporary restraining order without notice. Every such order shall be indorsed with the date and hour of issuance, shall be forthwith entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall, by its terms, expire within such time after entry, not to exceed seven days, as the court or judge may fix, unless within the time so fixed the order is extended or renewed for a like period, after notice to those previously served, if any, and for good cause shown, and the reasons for such extension shall be entered of record.

The formalities and safeguards here provided in section 263, the same being amendatory of the section of that number in the Judicial Code, are only such as are necessary in view of what I have already set forth and of what was said by Justice Baldwin in the case cited.

Section 266a adds a new section to the code to require security in all cases and reads as follows:

SEC. 266a. That no restraining order or interlocutory order of injunction shall issue except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

I now read from Foster's Federal Practice, page 753:

Later the practice—i. e., the practice as to security—was extended to interlocutory injunctions granted upon notice to the defendant, first in special cases, then generally; and now they—that is, bonds—are usually required as a matter of course in England and in most of the United States, although in some of the circuits the Federal judges are accustomed to grant injunctions without such requirement.

Section 266b of the bill also adds a new section to the code. It reads as follows:

SEC. 266b. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms; and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained; and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them, and who shall by personal service or otherwise have received actual notice of the same.

There can be no greater justice than that parties upon whom the edict of a judge falls, often without notice, shall know the exact condition in which it places him; and there can be no greater injustice, no greater cruelty, I might say, than to impart to him merely a vague or indefinite understanding that his past or present conduct has been already condemned by the court, leaving him to guess as to his proper deportment, groping in darkness with fear and trembling lest he be dragged before a single judge and sentenced to imprisonment for acts which may have been done in a belief that he was not answerable before a court.

I can not describe all the defects of process by which the parties served are left in doubt and perplexity and exposed to oppression and injustice. But it is a common bad practice to include in these writs and orders at the end an omnibus or basket clause forbidding all other acts of similar character, or referring for further details to the prayer of the bill, in the hope that anything which might have been omitted by the zealous lawyer will be corrected by the court when the time comes for punishing the party for contempt.

It is claimed that the present practice affords ample safeguards; that there are no precedents justifying the provisions of this section. In view of my investigation and study, the results of which I intend laying before this committee, I can scarcely conceive of a greater untruth. The present law affords no security whatever against vague, indefinite, ambiguous, misleading, bewildering commands of the courts. The Supreme Court rules, which have been again and again referred to, do not help us any herein. They neither cover the subject nor do they conflict with anything in this section. I will not take time to read to you the Supreme Court rules, but throw out this challenge, that counsel may call any conflicting provision which they can find to the attention of the committee.

Among the many authorities I might cite as to what is proper, commendable, and salutary in practice, which is no more than is

aimed at in this section, is Foster's Federal Practice, where it is said, at page 745:

> The writ should contain a concise description of the particular acts or things in respect to which the defendant is enjoined, and should conform to the directions of the order granting the injunction. * * * The defendants ought to be informed, as accurately as the case permits, what they are forbidden to do. It seems that a writ is insufficient which designates the acts sought to be enjoined by a reference to the bill, without describing them.

In support of Mr. Foster I will cite Swift & Co. *v.* United States (196 U. S., 376), where it was said:

> On the other hand, we equally are bound by the first principles of justice not to sanction a decree so vague as to put the whole conduct of the defendant's business at the peril of a summons for contempt. We can not issue a general injunction against all possible breaches of the law. The general words of the injunction "or by any other method or device, the purpose and effect of which is to restrain commerce as aforesaid," should be stricken out. The defendants ought to be informed as accurately as the case permits what they are forbidden to do.

That case was followed in N. Y., N. H. & H. R. R. Co. *v.* I. C. C. (200 U. S., 404), the court adding these words to what was said in the Swift case, here especially significant and relevant:

> To accede to the doctrine relied upon would compel us, under the guise of protecting freedom of commerce, to announce a rule which would be destructive of the fundamental liberties of the citizen.

I call attention to the fact that the words "or by any other method or device, the purpose and effect of which is to restrain commerce as aforesaid," which the court condemned and ordered stricken out as a menace to liberty, are the very words, or equivalent words, which several opponents of this provision strenuously insist should be retained as part of the practice pursued in labor cases. In so insisting they confess themselves unwilling to conform to correct practice, as laid down by the Supreme Court, and admit that a reprehensible, different practice has been pursued.

Members of the committee have been calling for some explanation of the purpose of this provision. Some of you may have heard of blanket injunctions. Whether you have or not, the labor people have, and I would not say that their meaning is known to them, because that is something past finding out. But they have learned from sad experience of their effect. Presently I shall exhibit to you some specimens of the article, some placed in the record by Mr. Monaghan; but first I wish to call your attention to what I would not call practice, but malpractice, amounting to crime. It is one of the most important phases of this subject, and is alone a justification for all these first three sections. I refer to the devices and tricks of injunction lawyers by which they wreak upon workmen on strike all the disastrous consequences of an injunction rightfully issued, but without any basis of right, justice, or law, and yet escape all risk and responsibility of being themselves called to account, or their clients incurring any liability.

In the first place the complaint, though unusually voluminous and filled with irrelevant and immaterial allegations, is defective in material, essential specifications. Such a complaint will be presented to a judge who naturally shrinks from going through and scrutinizing a long document. He relies in part upon the attorney's representations of what he can prove and issues a restraining order

already prepared, and that is usually a drastic, comprehensive injunction, often so stringent that it barely leaves the defendants room to breathe. He serves the order on a few of the leaders among those participating in the trouble and takes care that his sharp practice is immediately exploited in the press. Even the leaders can seldom understand the matter, though aided by such lawyers as they are able to employ.

We hear about disobedience in such cases and about the necessity of serving hundreds and thousands of men. It is all moonshine. There may be rare exceptions, but as a rule whether several or many are served, all hear of it, and all are completely demoralized and discouraged. No matter how just their side of the dispute, the very fact that a court possessing plenary and arbitrary powers has interfered on the other and stronger side, the side of capitalistic and police power, is an insuperable obstacle to winning the strike. So what is the use to appear and defend? Mr. Monaghan is correct, at least in his statement as to the effect of a restraining order or injunction.

It is true that few injunction cases involving labor disputes are reported. The first act of the judge is as destructive to the strike as would be a volley of musketry with its incidental carnage.

What becomes of the complaint or affidavits? It is a subject that some committee ought to investigate. As a rule, the complaint disappears immediately. The clerks are usually very accommodating to the attorneys for big employers of labor; besides, in some jurisdictions, the attorneys are allowed to retain the original papers.

In the course of his argument Mr. Monaghan made some very broad assertions as to the hesitancy of the courts to grant injunctions and their careful scrutiny of applications. He gave a surprisingly small number as having been issued in labor disputes. Being pressed by the committee, he admitted that his estimate was based only on reported cases. He also admitted that in many cases no report was available. Of course not. The injunctions and restraining orders against strikers run into the hundreds every year.

The second clause of section 266b says of the injunction or restraining order that—

> It shall be binding only on the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them and who shall by personal service or otherwise have received actual notice of the same.

Notwithstanding all criticisms hurled against this provision by learned and ingenious counsel, I insist that it embodies the law as it now is according to best authorities and that to have it otherwise, even if courts confined themselves to rightful jurisdiction, leaves the way open to intolerable abuses and judicial tyranny of a character which will, unless corrected, soon overturn the Republic and establish despotism on its ruins.

Time and again have we been referred to the Debs case as a precedent and basis for the opposition to this provision. I deem it worth while to call special attention to that case again and in this connection:

It is first to be noted that the case in the lower court was not the case heard in the Supreme Court. The excesses and superfluities of the writ were not before the Supreme Court. Debs was a party named in the writ and had been served. No defect or excess of any

pleading or process was there involved. It was a habeas corpus proceeding, and therefore necessarily turned on a question of the lower court's jurisdiction. I claim that the order and writ in the lower court were monstrosities, but whether they were or not is a question never judicially passed upon in that case.

In addition to forbidding about everything that men could conceive of or imagine, the order named certain defendants, of whom Debs was one, and then commanded and enjoined "all other persons whatsoever." A learned commentator, writing in the Harvard Law Review of the period (8 Harv. Law Rev., 228) and speaking dispassionately, said:

> It is difficult to see how such injunctions can stand the test of precedent and principle. An injunction issues in a civil suit to any party who has been complained of, at least, and has had notice of the motion of his adversary. To be obliged to wait until the injunction has been violated to determine against whom it was issued ought to be enough to show that it is not an injunction at all, but in the nature of a police proclamation putting the community in general in peril of contempt of court if the proclamation be disobeyed. Courts of equity were evidently not intended to possess such functions and it must be regretted that Judge Grosscup, in his most commendable eagerness to offset the criminal inaction of Gov. Altgeld, should have been forced to such a legal anomaly. The power of a court to imprison for contempt of its orders or of the persons of its judges is an arbitrary one at best, and to stretch it as here in the time of disorders and almost panic in the immediate vicinity would seem to show that the court has been deserted by the calm judicial temper which should always characterize its proceedings.

But the loose, deplorable, and reprehensible practices which this provision condemns and would end have been expressly condemned by the Supreme Court, both in its rules and decisions. Equity rule 48 provides as follows:

> Where the parties on either side are very numerous and can not without manifest inconvenience and oppressive delays in the suit be all brought before it, the court, in its discretion, may dispense with making all of them parties and may proceed in the suit, having sufficient parties before it to represent all the adverse interests of the plaintiffs and the defendants in the suit properly before it. But in such cases the decree shall be without prejudice to the rights and claims of all the absent parties.

Scott *v.* McDonald (165 U. S., 107) was a case arising under the South Carolina dispensary law. A writ of injunction had been applied for to and issued by the circuit court. The defendants were certain parties named and "all other persons claiming to act as constables, and all sheriffs, policemen, and other officers acting or claiming to act under the South Carolina dispensary law." When that injunction came before the Supreme Court of the United States it laid down a rule which I claim is that laid down in the provisions of this bill now under consideration. The court said:

> The decree is also objectionable because it enjoins persons not parties to the suit. This is not a case where the defendants named represent those not named. Nor is there alleged any conspiracy between the parties defendant and other unknown parties. The acts complained of are tortious and do not grow out of any common action or agreement between constables and sheriffs of the State of South Carolina. We have, indeed, a right to presume that such officers, though not named in this suit, will, when advised that certain provisions of the act in question have been pronounced unconstitutional by the courts to which the Constitution of the United States refers such questions, voluntarily refrain from enforcing such provisions; but we do not think it comports with well-settled principles of equity procedure to include them in an injunction in a suit in which they were not heard or represented, or to subject them to penalties for contempt in disregarding such an injunction. (Fellows *v.* Fellows, 4 John Chan., 25, citing Iveson *v.* Harris, 7 Ves., 257.)

The decree of the court below should therefore be amended by being restricted to the parties named as plaintiff and defendants in the bill, and this is directed to be done, and it is otherwise affirmed.

Speaking now with especial reference to labor disputes, the unwarranted comprehensiveness of restraining orders is well designed to defeat the rule as to parties and drag into the toils of litigation just the number required in order to defeat every purpose of a strike, whether or not those so enmeshed have done more than merely assume a negative attitude by the severance of relations and have patiently and steadily preserved it. It is not every lawyer even who would be able to analyze and draw the line between the legal discrepancies in such a case and take the proper steps to preserve the rights of unoffending persons held to account as participants in illegal conduct without being even mentioned by name in the complaint or order. Is it any wonder, then, that advantage has been taken of the loose and inconsiderate practice which these representative orders show the courts have sanctioned, and of which workingmen complain?

I will here notice one or two terms often loosely used by the courts. "Combination" and "conspiracy" describe illegal associations, and their meanings are the same for all practicable legal purposes. "Association" primarily denotes an entirely legal combination between the members. It is often said, however, by the courts, when a body of organized labor embarks upon an undertaking, that it is a combination or conspiracy, an expression signifying that the association itself has become unlawful or criminal. In legal essence all illegal acts of the membership of such an association, whether done by them singly or collectively, are perpetrated beyond and outside its purposes and should impose no legal consequence by way of injunction or otherwise upon the association as such or upon its members as such.

In Pickett *v.* Walsh (192 Mass., 572, 589) the court said:

There is a point of practice which must be noticed. As we have said, the plaintiffs have undertaken to make three unincorporated labor unions parties defendant. That is an impossibility. There is no such entity known to the law as an unincorporated association, and consequently it can not be made a party defendant.

Often has this well-established rule of law been completely overlooked or ignored in labor cases. That this principle was willfully and knowingly violated in all the cases in which Mr. Monaghan was counsel for complainants is seen by placing side by side the bills of complaint which he placed in the record and his admission at page 58 of the hearings, where he said:

We can not sue the union as a voluntary unincorporated association, because there is no statute upon the books of the Federal Government which permits a suit against a voluntary unincorporated organization as such.

The doctrine of ultra vires should apply here as in the case of corporations. According to that doctrine illegal acts done by officers and stockholders create personal liability only and in no way bind the corporation. But only in rare instances have the courts given the labor organizations the benefit of the application of the doctrine and in many cases have brought into the litigation and held to account the entire membership, though the vast majority had never previously heard of the acts done or had any intention to participate in doing them. In Buck Stove & Range Co. *v.* American Federation of Labor and others the boycott was instituted and

prosecuted by the St. Louis Labor Council, not connected in any legal sense with the national organization. The officers of the latter merely placed the complainant on an unfair list in the official magazine. Not more than a few hundred, or at most a few thousand, persons knew of the boycott. And yet the American Federation, as a voluntary association, and each of its million and a half of members were enjoined and rendered liable to punishment for contempt.

That is therefore a wise provision of this bill which requires personal notice to all parties whom it is sought to bind with orders granting injunctions and restraining orders. The doctrine of representation has no place here. Representation can only be resorted to where the parties have a common property interest in a fund or specific property which is the subject matter of litigation. There can be no common interest in torts.

In the hearings before the House committee have been placed from time to time various restraining orders and injunction writs. Altogether, if read here and inserted in the record, they would needlessly occupy much time and space. A description of their excesses and omissions alone will suffice to show the necessity for this bill.

The first instance to be noticed is Kansas & Texas Coal Co. *v.* Denney, decided in the district court for Arkansas in 1899. Here, as in most of such cases, no full official report of the case can be obtained from the published reports, but only a mere memoranda. The trouble and expense of procuring certified copies of the records have had to be resorted to in some instances. In this case the defendants (strikers) were ordered to be and were enjoined from—

> Congregating at or near or on the premises or the property of the Kansas & Texas Coal Co., in, about, or near the town of Huntington, Ark., or elsewhere, for the purpose of intimidating its employees or preventing said employees from rendering service to the Kansas & Texas Coal Co., from inducing or coercing, by threats, intimidation, force, or violence, any of said employees to leave the employment of the said Kansas & Texas Coal Co., or from in any manner interferring with or molesting any person or persons who may be employed or seek employment by and of the Kansas & Texas Coal Co. in the operation of its coal mines at or near said town of Huntington, or elsewhere.

It will be observed that a defendant in that suit would render himself liable to punishment for contempt if he met a man seeking employment in a foreign country and persuaded him not to enter its service.

In the case of Adams *v.* Typographical Union, in the Supreme Court of the District of Columbia, no mention was made of the filing of any complaint or of any reason whatever why the parties were restrained. Striking through the Typographical Union, all its members were dragged in; those who had and those who had not done the forbidden acts were placed on the same footing of condemnation. The union, a mere word sign in a legal sense, was impleaded as a defendant. We find in the order this broad, almost limitless command and prohibition:

> from interfering with any of the complainants in the conduct of their business for the purpose of preventing them from conducting the same in their own lawful way.

Also this:

> Such injunction to remain in force during the pendency of this proceeding, or until the further order of the court.

This was not a restraining order, but an injunction issued at and upon filing the complaint. There is not a word in the complaint in the case about loss or financial detriment to result from the acts of the defendants. It is also observable that the order contained not a word to show why it was issued, not even a mention of the filing of a complaint. It gave the parties no day in court for the purpose of getting rid of it, nor was any other relief prayed, othrer than the advantage to accrue to complainants by the issuance of the injunction. There have been many such orders and injunctions issued, in the first instance, here in the District.

In the Buck's Stove and Range case the order was so long and involved that a busy man would almost prefer paying a fine to having to read it. Among other matters were these words:

> And from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm, or corporation.

Now, if one of the million and a half persons dragged in by using the associate name or anyone else had a stove or range to sell, he was forbidden to tell a prospective purchaser that it was a better article than that offered by the complainant, much less could he tell him that complainant was unfair to labor. They were forbidden—

> from declaring or threatening any boycott against the complainant or its business or the product of its factory.

Such a clause is clearly forbidden by the Supreme Court in Swift & Co. *v.* U. S. and in the Chesapeake Coal case, which I have heretofore cited.

But if the goods were of inferior quality the defendants could not mention that fact to their friends or relations; neither the American Federation of Labor nor any of its members could declare a primary boycott against the complainant for any cause. I note that the complaint was projected on the theory of a secondary boycott, and toward the close we have in the restraining order this sweeping overlapping clause:

> And from in any manner whatsoever impeding, obstructing, interfering with, or restraining the complainant's business, trade, or commerce.

This also was the excess which the court in the Swift and the Chesapeake Coal cases condemned as dangerous to personal liberty.

I will not go into the details of the Alaska case, since we are not much surprised at anything happening there. But the order had all the usual excesses, including the usual catchall clause running to the end of time and covering all possible activities of the defendants. It also assumed to drag in all the members of the union, wherever they might be or however circumstanced, by the simple expedient of impleading the union as a defendant.

In the Massachusetts case it will be noted that the union was impleaded according to the usual bad practice; and with the Supreme Court's decision in Pickett *v.* Walsh staring them in the face, too. This order enjoins them—

> To desist and refrain from interfering with the business of the complainants, or any of them, by the use of threats, force, or intimidation, with anyone seeking employment with any of the complainants or their agents, or by the use of promises to pay board, etc.

The order here fails to state that any complaint had been filed, but "whereas it has been represented unto us by the complainants,"

naming them, "that the said complainants have exhibited a bill of complaint," etc. No complaint in such a case, under any correct system of pleading, could possibly have shown a cause of action in more than one complainant, and yet here were a dozen joined, no doubt with a view to overawing the defendants into submission.

The order in the West Virginia case (Hitchman C. & C. Co. *v.* Mitchell et al.) possesses the vice of not containing the name of either complainant or defendant. It is more in the form of a proclamation by a military commander or provisional governor of a conquered province in war times than anything I can think of. Under that order it would have been dangerous for any member of the union to have made any statement or representation whatever about the complainant or complainant's business to anyone seeking employment with the complainant, even if the person seeking employment had asked for information. It was what might be termed a roving injunction, calculated to catch and bind anyone upon whom it might be served or to whose attention it might be called.

I will not attempt to make extracts from it. It is all so bad that I would not know where to begin or end. It was issued by United States Judge Dayton and is attested by the clerk of his court, though not signed by the judge. That thing was entitled and styled a restraining order but had all the terms and legal effect to be found in any permanent injunction. Its drastic, far-reaching, and stringent prohibitions were introduced with the words "It is therefore adjudged, ordered, and decreed by the court," etc. There is not in it a line or word to inform the reader as to the offenses or wrongs charged against them. There was no notice or order or opportunity to show cause why the order should not stand until the day set for final hearing, nor any way to get rid of it upon any ground until the end of a protracted and expensive litigation. And in order to make the destruction of the rights of the defendants all the more complete and certain, the hearing was set 2 months and 21 days after the date of its issuance.

Before discussing in detail the court records produced by Mr. Monaghan, attorney for the founders' association, I will call attention to the showing of the records produced by him with reference to the practice which has characterized the conduct of such cases. In the first place we note that each and every attorney for an industrial corporation denies emphatically that any court has in any instance abused its power or exceeded its jurisdiction, and has asserted, apparently with entire candor, that the most that can be imputed to the judges is an occasional error or irregularity.

Mr. Monaghan admitted that some injunctions and restraining orders had issued of which he would be unable to obtain any data or record. That sounds a little strange to those familiar with the essentials of proper and regular court procedure. But those, at any rate, who know the reckless and oppressive uses of injunctions in labor disputes are not surprised. It often happens that they get a drastic order or injunction, and then, after it has done its deadly work, it disappears.

Mr. Monaghan thought he could, at any rate, produce a certain number of records, and in response to the urgent request of the committee, promised to produce 34 at least. He produced and placed in the record just 3 complaints and restraining orders and injunc-

tions to the number of 15. It is fair to asume that he did not discriminate against his clients or himself in making the selections. Although those he was unable to locate and produce may be worse than those he has placed in the record, I do not care to see them. These are bad enough. Those produced bear internal evidence of having been prepared by competent and painstaking lawyers in Cincinnati seeking to make the best possible showing with such materials in the way of facts as were available. And yet how utterly lacking in essential allegations as a basis for the exercise of equitable jurisdiction through the extraordinary strong-arm process of injunction.

First, we have the complaint in the Greenwald Co. case, upon which an injunction was granted by a judge of the superior court at Cincinnati. It recites, of course, that the complainant has large capital, large business, and employs a large number of men, allegations which are always deemed important by the counsel who prepare and judges who issue these writs. It impleads three labor unions as defendants, and through that contrivance drags in their members to the number of hundreds, perhaps thousands, as parties to a complaint charging criminal conspiracy, most of whom must have resided at a distance and have been utterly innocent of knowledge of the acts charged, or even of the situation at the scene of the dispute. The nearest approach to a charge of trespass, hence the only threatened injury to a property right, found in the complaint is that the defendants selected and detailed "large numbers of persons called pickets to constantly watch and beset the approach to plaintiff's foundry," without stating whether the congregating was in the street or on private property with the owner's consent; whether it was near the entrance, or a mile away.

But the real grievance, as is plainly seen by reading the complaint, is the charge that the union was on strike "and their officers, associates, and confederates are all combining and confederating together for the purpose of preventing the employees of plaintiff, who are desirous of working, from continuing in its employ, and also of preventing others from entering the employment of plaintiff."

It is not necessary to attempt to analyze or to point out the weak features of the two other complaints—one in the United States Circuit Court for the Eastern District of Kentucky and the other in the United States Circuit Court for the Southern District of Ohio. They are open to the same criticism, not differing in essentials from that just noticed. Nor is it necessary to discuss orders or injunctions issued on the complaints further than to speak of their vagueness, lack of comprehensiveness, and the utter recklessness and disregard for justice, legal formalities, and private rights, of which they contain conclusive proof.

I have also before me, as part of the House hearings, the complaint in Hitchman Coal & Coke Co. *v.* John Mitchell and others. This complaint is exceedingly profuse, setting forth many transactions, industrial conditions, and isolated acts of individuals in different parts of the country, but falling as far short of an injury to any property or property right as if the pleader were describing the incidents of a political campaign and its effect on business. This complaint is a slight variation from the usual form in the matter of parties. Instead of making the half dozen large labor organizations parties defendants, it seeks to bring in their memberships, whether

within the judicial district, in the Eastern or Western States, or in Alaska, and to subject them to the order then and there made, by suing their officers in a representative capacity. This is merely a slight variation of the abuse of process and of fraudulent and bogus procedure.

The charges, as you would see if you examined the complaint, are of acts and conduct forbidden by the order on the sole ground of their unlawfulness. The legal mind can not conceive of such a thing as proceeding by representation in such a case. It is a maxim of the law that there can not be an agency created to violate the law, nor any such thing as joint recovery against or joint liability of tort feasors, nor can individuals be joined as parties defendant in such a case, unless they be shown to have conspired together as such, or to have acted or to be acting in concert. But you will search in vain through this complaint to find an allegation showing a coming together in any act of illegality such as would either show concert of action or anything upon which to proceed against them, except the bare fact that those named were officers of labor organizations and that the vast number not designated by any name were members of such organizations.

The prayer simply asked, in minute detail, for restraint and prohibition upon every act and proceeding conceivable or which could be imagined tending toward success of the unionists in their attempt to unionize the miners in that region and improve the deplorable conditions there existing, and the order followed the prayer, with a few extra dashes and colors. If obeyed according to its letter and spirit, it completely stilled the tongues and paralyzed every activity of the defendants and of their associates and sympathizers. No one reading the record can fail to see that neither the corpus not the possession of property was endangered or threatened, and that the sole purpose of the proceeding was to exile from the district all not willing to renounce their union connections and peacefully and submissively accept employment with the company on its own terms and conditions.

Such complaints and orders have common phases, features, and purposes. The injury to property is seldom the thing sought to be provided against, nor is the protection of property or property rights the object in view. Organized strikers always respect property rights. They seldom even disturb peaceful possession. The purpose of these suits is the unfair use of a powerful weapon against labor's side in these legitimate trade conflicts.

Rule 86 of the Supreme Court, placed in the Senate hearings at page 68, contains nothing in conflict with the provisions of this section, and the two Supreme Court decisions, which I have cited, may be treated as a proper construction of the rule.

IRREGULARITIES IN PARTIES DEFENDANT.

I wish now to point out in a more general way than heretofore the evils which have resulted and are likely to continue to result in the matter of parties defendants. Men have been haled before courts and fined and imprisoned for acts which, though within the terms of an injunction, were not necessarily connected with the controversy between the parties.

It is obvious that in such a case the judge assumes jurisdiction to try the party without indictment, information, or jury, himself the

sole judge of the party's guilt, and his will, sometimes his prejudice or passion, the measure of punishment. It is also clear that such a practice might be so extended that jury trials and the usual formalities in criminal cases, always deemed essential to the preservation of freedom, might be entirely eliminated, especially in times of strife and excitement, and each judge of a court of equitable powers become an absolute sovereign within his domain.

Much needless fear is exhibited by Mr. Hines, counsel for certain railroads, because of the alleged difficulties of obtaining the names of those who are to be enjoined and of procuring service upon them where a railway strike occurs. His information with respect to the mode of living of railway employees and their residential status appears to be more limited than that of the average citizen having no connection with railroad business.

He grossly exaggerates the difficulties and inconveniences of reaching and serving those whom it is found or thought necessary to serve in the issuance of an injunction or restraining order. The facts, as any railway employee, except perhaps Mr. Hines knows, are that the nature of the employment is such that permanency of residence is absolutely necessary in the case of any employee whose employment is not merely temporary and free from personal responsibility. Moreover, there can never be the slightest difficulty in getting their names and addresses. It would be shown by the pay rolls. Nor is there anything in the assertion that the operations of a railway strike extend over an extensive territory. Such is seldom the case; but even where that condition exists, the inconvenience of getting service is negligible. With respect to such acts of vandalism as damaging engines and boilers and separating cards attached to freight cars, no injunction could anticipate them, no matter how completely or promptly served.

Passing on, I wish to say to the committee that I have thus far spoken somewhat of legitimate and proper resorts to this jurisdiction and somewhat of irregularities. But when we have created Federal courts, and one of the judges appointed to preside in them, in violation of the rights of the parties, because of a wrong sense of social duty, because of the violation of the fundamental principles and distinctions well settled as a basis of the jurisdiction between property and personal rights, issues an injunction to protect personal rights, then you have started on the road to a complete disintegration of society and the overthrow of our institutions; because a judge without limitations and with a wrong view of social duty, a wrong view of the fundamental principles of law, is simply a sovereign. His power is more dangerous than that of any unscrupulous monarch on the face of the earth, and such a judge can not be found in any country outside of the United States.

It is not necessary for me to so characterize any particular judge, or to say that any particular judge deserves to be so characterized. I speak of the bias, the practice, and the tendency.

Counsel for the opposition know full well the harm of this usurpation. There is no definition in this bill of property or property rights, but they have made that subject the beginning and ending of every argument. It seems they are trying to erect a bulwark here of argument so as to have the whole question prejudged, for well do they

know that so important and vital a question must be settled sooner or later.

Senator NELSON. Is it your idea, Mr. Spelling, that it is only property or property rights, as distinguished from personal rights, that are entitled to protection by injunction in any case?

Mr. SPELLING. It is not only my idea, but my settled conviction. If there is any proposition in the law upon which I can take my stand and feel I am on sure ground, it is that; and I am not lacking in authority. It was so well settled centuries ago that the courts ceased to refer to it. There are plenty of English authorities, but the gentlemen in opposition do not bring them forward here. There are also plenty of American authorities.

There was a long period in which there was no departure from the rule that equitable jurisdiction was limited to property rights, and in one case—yes, in two or three cases—in Kidd *v.* Horry (28 Fed. Rep., 774), by Mr. Justice Bradley, and in the National Protective Association *v.* Cumming (170 N. Y., 315), by Mr. Justice Parker, of the New York Court of Appeals, and in other cases, the way some of the courts got wrong on that proposition was pointed out. I will give a quotation from the case of Kidd *v.* Horry.

It will be found upon close scrutiny of the cases that in many of the State cases where injunctions were issued in labor cases the jurisdiction was acquired under statutes expressly conferring the jurisdiction, and that they found sanction in the decisions of the English courts, which was likewise conferred by statute. And the Federal judges in, I dare say, the most of the cases overlooked this fact and based their decisions on precedents, which, if they had been closely scrutinized, would have been found not authoritative.

The English statute, after which some of the State statutes are patterned, reads in part as follows:

> In all breaches of contract or other injury where the party injured is entitled to maintain and has brought an action he may claim a writ of injunction against the repetition or continuance of such breach of contract or injury, etc.

In part, Justice Bradley said (in Kidd *v.* Horry):

> As the high court of justice established by the judicature act of 1873 was an amalgamation of all the courts of original jurisdiction of Westminster Hall, including the court of chancery, which became merely one of the divisions of the high court, it follows that the court of chancery became invested with the jurisdiction which was given to the common-law courts by the common-law procedure act of 1854, and hence became invested with the power to grant injunctions to prevent the continuance or repetition of an injury which was actionable in any court and for which an action was brought, although the power to grant injunction in cases of libel was resisted, in several instances, by very high authority, as in the case of Prudential Assurance Co. *v.* Knott (10 Ch. App., 142), by Lord Chancellor Cairns and Lord Justice James, and in that of Beddow *v.* Beddow (9 Ch. Div., 89), by Sir George Jessel. The practice of issuing such injunctions, however, finally prevailed.
>
> This statute law of Great Britain is sufficient to account for the English cases relied on by the complainant and is undoubtedly the basis on which they really stand.

The error in the first of these decisions occurred in the same way that most erroneous decisions are given—that is, by overlooking fundamental principle and failing to reexamine the ancient and well-established boundaries of the jurisdiction. If we go back to the period of the struggles between the law and chancery courts, we find the limitation of equity in injunction cases to property and property rights often referred to and discussed.

Subsequently it was so well understood that it was deemed necessary to only occasionally refer to it. Bulwarks of erroneous decisions have been erected on other subjects to be subsequently demolished. Some isolated erroneous decision was tamely and blindly followed as a precedent without investigation as to whether it was sustained by principle or not, the supposed exigency or hardship of a case before the court being elaborated and the precedent being accepted as binding, or, if not binding, at least strongly persuasive.

If in the course of what I say here I appear to go outside the real issue, this is my answer, that by showing hereafter that the courts possess no jurisdiction to enjoin any other injuries than those threatened to property, such showing has been made necessary by the course in argument of the opposition, and questions propounded by members of the committee. Such showing is not a case of proving too much, but a case in which the greater includes the less.

It can not be doubted that some of the wrongs to labor by excesses of jurisdiction are due to willful perversion of judicial authority, but it is evident that most of them are attributable to a false view of social duty.

The attitude of the courts of whose conduct complaints have been made has all the dangers and vices of the most obnoxious paternalism. Such courts have accepted the abstract right to do or to continue business, which because of its universality is clearly seen to be merely personal, as a property right, vested in one class to the exclusion of others. Hence, in protecting it by injunction, in excess of jurisdiction they are not exercising a judicial function at all, but enacting destructive legislation for the benefit of one class and directing it against another. And this is a complete answer to the objection, so often repeated here in argument, that this bill proposes legislation in the interest of a class.

The right asserted by the interests here arrayed in opposition to the bill is not merely that of doing business, but of continuing business under all conditions and circumstances, exclusive of the rights of others, and though the exercise of it may mean the subordination of all other rights. Take for illustration the case of Buck's Stove & Range Co. against the American Federation of Labor and others.

The evidence in that case showed strong provocation for the hostility on the part of organized labor toward the plaintiff. There was not only a dispute of long standing concerning the hours of service in the works, but plaintiff's president was at the head of the national organization whose avowed purpose was to oppose nearly all that union labor stands for, and that he held official positions in other organizatoins of employers in his own line of production whose by-laws provided for various forms, not only of resistance, but of aggressive action hostile to the unions. Under the circumstances, the action taken by the labor organizations against the plaintiff might have been fairly considered a legitimate battle of trade, with which a court of equity should not have interfered. The feature of that case which is pertinent here is the viewpoint of the court which granted an injunction against the defendants.

Among the objects which the president and representative of the plaintiff in the case proposed to accomplish in the labor field was the

maintenance of the "open shop" of which his company's plant was an examplar.

In dealing with its customers, that company insisted upon, and had succeeded in establishing the "closed shop"; that is to say, it made a contract with just one dealer and no more in each town or city in the country, and bound the customer to deal in its goods exclusively. And it was this right for which it sought and obtained the court's protection. The court saw nothing wrong in the exclusion by contract or combination between it and a dealer in each community of all competition, and the acquisition of the power to compel workingmen and all others to pay its prices or go without stoves and ranges. But when the union men, to whom that company denied the right of establishing fair and reasonable hours, refused to patronize it, and asserted the right of free speech and freedom of the press in calling attention to its unfairness, the court concluded that was not permissible, and that it should be prevented, even if to prevent it required the exertion of all the powers of the court.

The plaintiff in that case was, in all other respects, without protection from external forces in competitive enterprises. Other manufacturers to the number of more than 60 were in the market, each competing, at least with respect to the volume of trade, through the exclusive contract plan probably and otherwise, each seeking to establish a "closed shop" for itself in each town. But they were all members of the Stove Founders' National Defense Association, which exhibits strong hostility to organized labor in its by-laws. Here they stood united; but all the members were otherwise in competition, each with the other. The courts afford no remedy against this competition, and we consistently maintain that they should afford none. And yet the court forbade by injunction labor from resorting to effective means of competition for a fair division of the joint product of capital and labor.

The agents of each of the sixty-odd manufacturers were free to make whatever representations they pleased, truthful or untruthful, about plaintiff's goods, and thus to boycott it, if you please, to the fullest extent, and thus narrow its market and destroy its business, and to do this from purely selfish or vindictive motives. Against all this the plaintiff had never thought of seeking an injunction, and if one had been sought the courts would have treated the application as an absurdity.

But when union labor, seeking the establishment of better conditions for its members and acting in its own interest in pursuit of its legitimate objects, laid down a fair condition upon which it would patronize the plaintiff and declared that until the condition was accepted it would withhold its patronage, its entire membership was enjoined from maintaining even this negative attitude toward the plaintiff. In other words, only one thing was deemed important in that case, only one consideration seems to have moved the court, and that was the successful continuance of the plaintiff in business, the preservation of the market for it, at all events, regardless of the interests and opinions of the members of the unions, who were the principal retail purchasers of its product, as to whether it was entitled to a continuance of their favor.

And that case is fairly illustrative of many others.

JUDICIAL GUARANTIES AGAINST HAZARDS OF BUSINESS.

The courts, supposedly the representatives of the Government and handmaids of public justice, are thus guaranteeing to a certain class immunity against the ordinary vicissitudes and hazards of business. And they are doing this in a country of supposed equals, and in order to do it they are robbing hundreds and thousands of men of their liberties. They are meantime establishing a preferred class, a business despotism, and exempting the membership of that class from some of the difficulties and opposing forces which they would have to encounter if recognition were given to the principle of equality before the law and impartiality in the administration of justice.

Employing capital is thus exempted, and labor correspondingly discriminated against. It appears that some of the courts have unconsciously imbibed the spirit of commercialism, and when led by that spirit are no longer able to attach importance to the simple ordinary rights of the citizen. Such courts act as if they considered it the chief purpose of government to promote and encourage the accumulation of wealth in the hands of those in possession of the machinery of production and trade. In the presence of that purpose all conflicting interests must yield.

The interests and personal rights of hundreds and thousands must give way whenever the conflict in court happens to come between the interests of what are designated as "business men" and those of "wage earners." The failure of a business man, or even an interruption of his operations, is considered a misfortune of direst import as compared to the paralysis of the arms and tongues of any number of men having smaller interests, though those interests be equally dear, or even vital, to the possessors.

Gustavus Myers, in the preface to his remarkable history of the Supreme Court of the United States, says:

> Instance after instance occurs where justices, at the end of long service on the bench, have died virtually penniless or possessed of the most scantily moderate degree of means. Yet many of those very justices were the same who by their decisions gave to capitalists vast resources or powers translatable into immense wealth. The influence so consistently operating upon the minds and acts of the incumbents were not venal, but class influences, and were all the more effective for the very reason that the justices in question were not open to pecuniarily dishonest practices.
>
> From training, association, interest, and prejudice, all absorbed in the radius of permeating class environment, a fixed state of mind results. Upon conditions that the ruling class finds profitable to its aims and advantageous to its power are built codes of morality as well as of law, which codes are but reflections and agencies of those all-potent class interests.
>
> In the case of men whose minds are already permanently molded to such purposes and whose character and station forbid the use of illicit means immeasurable subservience can be obtained which crude and vulgar money bribery would hopelessly fail to accomplish. Under these circumstances a great succession of privileges and powers are given gratuitously, and class corruption appears as honest conviction, because of the absence of personal temptations and benefits on the part of the justices. In this deceptive and insidious guise supreme judicial acts go forth to claim the respect and submission of the working class against whom the decisions are applied.

It would be useless to attempt hiding the social and economic struggle out of which this issue has grown. No one who has given thought to the subject can doubt that among many causes for the high cost of living and the consequently relative low wage rate for labor is overcapitalization by corporations. The payment of dividends on

stocks which often represent no investment or very little compels them to force the cost of living up at one end and the wages of their employees down at the other. Thus they exploit both the consumer and the wage earner, oftener than otherwise represented in the same person. In order to pay these dividends they totally ignore the claims of humanity, resort to speeding up, long hours, and other forms of downright cruelty.

To such extremes would they go, were it not for such resistance as organizations of labor can interpose, and were we to leave in their hands the instrumentality of injunctive processes as now administered, that they would soon reduce labor in this country to a worse plight than in any nation of the world; worse even than that of Russian exiles in the coal mines of Siberia.

Of course, writs of injunction are not recklessly and inconsiderately granted by all courts, but these large employing corporations, such as constitute membership in the associations represented by Mr. Hines, Mr. Dillard, Mr. Davenport, Mr. Emery, Mr. Monaghan, Mr. Herrod, Mr. Drew, and others, can always find a judge who fails to properly discriminate between a good complaint and a bad one, a fair order and one that is too drastic and too vague.

Here I will insert some figures furnished by Roger W. Babson, a celebrated statistician. These figures were obtained by him from the returns of corporations under the corporation tax law of 1909, and are therefore official.

National corporation tax returns.

	1910	1911	Increase.
Capitalization	$52,371,626,752	$57,886,430,519	$5,514,803,767
Bonds and debt	$31,333,952,696	$30,715,336,008	[1] $618,616,688
Dividends	$3,125,480,000	$3,360,250,642	$234,779,642
Number of corporations	262,490	270,202	7,712

[1] Decrease.

Of course, you will understand that these are returns only from corporations having net incomes of $5,000 and over, and that some classes of very large corporations are exempted from the tax and are, therefore, also omitted.

Now, by their own showing in the record of the Senate hearings, the gentlemen I have named represent a large number of these corporations, which, with others not represented, but directly interested, employ the labor of this country. These are some of the corporations which realize in profits and pay to their stockholders in dividends over three and a quarter billions of dollars a year, taken back out of the wages they pay, and from moneys otherwise earned by the people of this country. Last year their capitalization increased five and one-half billions of dollars and their profits, represented in dividends, increased over $234,000,000.

Such are the opponents of this bill. Such are the institutions that object to loosening even one of the fetters they have placed upon the limbs of labor, fetters which are held through the constant menace of writs of injunction and the fear of jail sentences.

I wish to present some further statistics on this subject. These figures, which I now present, represent the operations of steam railroads engaged in interstate commerce.

	Total revenue.	Total outgo.	Net revenue.	Ratio operating expenses to operating revenue.	Percentage net revenue.
				Per cent.	
1908	$2,424,640,637	$1,695,101,878	$729,538,758	69.91	30.09
1909	2,393,805,989	1,669,547,876	730,235,381	69.75	30.25
1910	2,787,266,136	1,847,189,773	940,076,363	66.27	33.73

It is also eminently proper on this occasion to call attention to a few matters of relevant history. At the close of the Civil War so large a proportion of transportation was by water, and railroad mileage and investment were relatively so small that the latter was not a matter of serious concern in any quarter as a political or financial power. The lines were short and they were operated merely as feeders of transportation by water. Railroad bond issues outstanding did not exceed $400,000,000. Now it is claimed, or rather admitted, by the highest railway authorities that altogether not more than $8,000,000,000 of cash capital has been invested to date. And yet they claim that the $18,000,000,000 of stocks and bonds outstanding are not in excess of the value of the railroad properties. In other words, that, considering present values, there is no overcapitalization. Accepting all these claims and admissions at face value what do they prove? They prove that each investment of $8 has resulted in a net increase in capitalization of $10. Eliminating from the calculation the small beginning that had been made, starting with 1866 and assuming the entire $8,000,000,000 as an investment made at that date, a net increase is shown of 125 per cent in 44 years.

But inasmuch as the aggregate of original investment has increased much faster during the last than during the first 22 years of the period, it is at least fair to treat the investment of $8,000,000,000 as one made 22 years prior to 1910. The showing then is of an average annual net profit from investments in railroad properties of a fraction over 5.77 per cent, which is found by dividing 125 by 22. Now, with one-seventh of the Nation's capital, all in the hands of one small class of business men, withdrawing from all others 5.77 per cent of net profits as against a much smaller percentage withdrawn from the rest, estimated at 3 per cent, it is not difficult to see the end of prosperity in all lines of enterprise other than that of transportation by rail. It is clear that if some peaceable and lawful means be not found to end this grossly unjust disparity the end will be complete financial despotism on the one hand and abject dependence on the other.

Now, that 5.77 per cent is practically guaranteed as a fixed income on $18,000,000,000. But the interest paid on railroad bonds is much less than 5 per cent, and runs as low as 3 per cent. The Interstate Commerce Commission in 1904 made a report showing that the average dividend rate on railroad stocks was then 5½ per cent.

The commission's statistics show that in 1908 and 1909 it was 6.43 per cent, and as there was a great increase in net revenues in 1910,

it is now over 7 per cent. The bonded indebtedness represents almost the entire investment and is less than one-half the capitalization, so that 7 per cent dividends is really 14 per cent on the actual investment, assuming, though contrary to the fact, that the present owners of the railroads made the investment, or any part of it.

But this does not tell the whole story. At least one-half the operating revenue goes to extensions and improvements, which, when made, belong to the holders of the stock, who own the railroads.

I think that instead of trying to hold down their employees to low wages, with the menace of usurped injunctive powers of the courts, it would be fairer and cheaper, in the long run, to increase wages and shorten the hours of toil.

There is another phase of this matter, however, to which I am strongly tempted to call your attention. How long can the people of this country stand these vastly disproportionate returns to class capital? It would relieve the situation somewhat if they gave their employees shorter hours and better wages. Some of the stupendous exactions from business and industry would thus find its way back to the people, who pay freights and fares, instead of creating multimillionaires or being squandered in foreign countries and in wasteful luxuries at home.

Mr. Hines went into the apparently irrelevant matter of wage increases by the railroads. But, in spite of nominal increases, the net earnings of the railroads increased in 1910, when most of the wage increase took effect, over the net earnings of 1909 by over $110,000,000.

I have inserted the foregoing statistics and commented upon their significance because I recognize that the struggle between capital and labor is really competitive; an irrepressible, inevitable conflict between the respective forces with a just division of the joint products of capital and labor as the issue, and that the unwarranted resort to the process of injunction gives to one side of that conflict a grossly unfair advantage.

The courts should never interpose between these forces unless the facts would warrant interference in the absence of a dispute. And in other trade conflicts they never do interpose.

In Hopkins *v.* Oxley Stave Co. (83 Fed. R., 912) Judge Caldwell said:

> While laborers, by the application to them of the doctrine we are considering, are reduced to individual action, it is not so with the forces arrayed against them. A corporation is an association of individuals for combined action; trusts and corporations combined together for the very purpose of collective action and boycotting; and capital, which is the product of labor, is in itself a powerful collective force. Indeed, according to this supposed rule, every corporation and trust is an unlawful combination, for while its business may be of a kind that its individual members, each acting for himself, might lawfully conduct, the moment they enter into a combination to do that same thing by their combined effort the combination becomes an unlawful conspiracy. But the rule is never applied.
>
> Corporations and trusts and other combinations of capital extend themselves right and left through the entire community, boycotting and inflicting irreparable damage upon and crushing out all small dealers and producers, stifling competition, establishing monopolies, reducing the wages of the laborer, raising the price of food on every man's table and of the clothes on his back and of the house that shelters him, and inflicting on the wage earners the pain and penalties of the lockout and the black list, and denying to them the right of association and combined action by refusing employment to those who are members of labor organizations; and all these things are justified as a legitimate result of the evolution of industries resulting from new social and economic conditions, and of the right of every man to carry on his business as he sees fit, and of lawful competition.

On the other hand, when laborers combine to maintain or raise their wages, or otherwise to better their condition, or to protect themselves from oppression, or to attempt to overcome competition with their labor or the producers of their labor in order that they may continue to have employment and live, their action, however open, peaceful, and orderly, is branded as a "conspiracy." What is "competition" when done by capital is "conspiracy" when done by laborers. No amount of verbal dexterity can conceal or justify this glaring discrimination. If the vast aggregation and collective action of capital is not accompanied by corresponding organization and collective action of labor, capital will speedily become proprietor of the wage earners, as well as the recipient of the profits of their labor. This result can only be averted by some sort of organization that will secure the collective action of wage earners. This is demanded not in the interest of wage earners alone, but by the highest considerations of public policy.

In Vergelahn *v.* Guntner (167 Mass., 92) Justice Holmes, now of the Supreme Court of the United States, said:

It is plain from the slightest consideration of practical affairs, or the most superficial reading of the industrial history that free competition means combination, and that the organization of the world, now going on so fast, means an ever-increasing might and scope of combination. It seems to me futile to set our faces against this tendency. Whether beneficial on the whole, as I think it is, or detrimental, it is inevitable unless the fundamental axioms of society and even the fundamental conditions of life are to be changed. One of the eternal conflicts out of which life is made is that between the effort of every man to get the most he can for his services and that of society, disguised under the name of "capital," to get his services for the (least) possible return. Combination on the one side is potent and powerful. Combination on the other is a fair and equal way. * * * If it be true that the workingmen may combine with a view, among other things, to getting as much as they can for their labor, just as capital may combine with a view to getting the greatest possible return. it must be true that when combined they have the same liberty that combined capital has to support their interest by argument, persuasion, and the bestowal or refusal of those advantages which they otherwise lawfully control.

I desire to read from what Lord Coleridge said in the great case of the Mogul Steamship Co. *v.* McGregor (21 Q. B. Division, 544, 1892). This is a case of conflict between capitalists for the control of the carrying trade of the ocean. The court said:

There can be no doubt that the defendants were determined, if they could, to exclude the plaintiffs from this trade. Strong expressions were drawn from some of them in cross-examination, and the telegrams and letters showed the importance they attached to the matter, their resolute purpose to exclude the plaintiffs if they could, and to do so without any consideration for the result to the plaintiffs if they were successfully excluded. This, I think, is made out, and I think no more is made out than this. Is this enough? It must be remembered that all trade is, and must be, in a sense selfish. Trade not being infinite—nay, the trade of a particular place or district being possibly very limited—what one man gains another loses. In the hand-to-hand war of commerce, as in the conflicts of public life, whether at the bar, in Parliament, in medicine, in engineering—I give exmaples only—men fight on without much thought of others, except a desire to excel them or defeat them. Very lofty minds, like Sir Philip Sydney, with his cup of water, will not stoop to take advantage if they think another wants it more. Our age, in spite of high authority to the contrary, is not without its Sir Philip Sydneys; but these counsels of perfection it would be silly indeed to make the measure of the rough business of the world as pursued as ordinary men of business.

I have already said that the same conflict goes on between capital for the trade of the world, which is not infinite, goes on and is unavoidable between capitalists, whether in individual hands or in the hands of these mighty combinations and labor, and without organization the tendency inevitably is for labor to descend, and that rapidly, to a condition of absolute servitude and helplessness. I say that, in the nature of things, and under present conditions, this warfare is unavoidable, and there is the same justification for organized labor resorting to the legitimate and recognized methods of

warfare, in its hard and unequal struggle against capital, that there is expressed in the foregoing extracts in the conflicts of capital against capital, and the learned justices have shown you what extraordinary lengths are held justifiable.

And in Pickett *v.* Walsh (192 Mass. 572) Judge Loring, delivering the opinion, said:

> Further, the effect of complying with the labor union's demand apparently will be the destruction of the plaintiff's business. But the fact that the business of a plaintiff is destroyed by the acts of the defendants done in pursuance of their right of competition is not decisive of the illegality of the acts. It was well said by Hammond, J., in Martell *v.* White (185 Mass., 255, 260), in regard to the right of a citizen to pursue his business without interference by a combination to destroy it:
>
> "Speaking generally, however, competition in business is permitted, although frequently disastrous to those engaged in it. It is always selfish, often sharp, and sometimes deadly."
>
> The application of the right of the defendant unions, who are composed of bricklayers and stonemasons, to compete with the individual plaintiffs, who can do nothing but pointing, as we have said, is in the case at bar disastrous to the pointers and hard on the contractors. But this is not the first. The case at bar is an instance where the evils which are or may be incident to competition bear very harshly on those interested, but in spite of such evils competition is necessary to the welfare of the community.

To the same effect is Allis-Chalmers Co. *v.* Iron Molders' Union (C. C.) (150 Fed. Rep., 155), per Sanborn, J.

Great changes are at work in the public thought of the Nation, and labor is abreast of the times.

In the report of the House committee on this bill we find this expression:

> The idea has been advanced and ably supported in argument by one of the proponents of this legislation that liberty, and more of it, is safe in the hands of the workingmen of the country. We are convinced of the merit and truth of that contention. The tendency toward freedom and liberation from legal trammels and impediments to progress and to a great social advance is seen in nearly all civilized nations. It is an unpropitious time to oppose a reform like that embodied in this bill, in view of the fact that the abuses of power which it seeks to terminate have been, admittedly, numerous and flagrant.

As evidence that organized labor fully understand their rights, I read from the address of President Gompers to the last annual convention of the American Federation of Labor, the same having been unanimously adopted as the sense of the members:

> POLITICAL CHANGES AFFECTING LABOR.
>
> At length it has become evident to all open-minded men that important changes are impending in our methods of government, and especially with reference to the status of political parties. Voters are now demanding better reasons for their support of a particular candidate than his nomination by a party or his indorsement by some official or unofficial boss. The spirit of revolt and change is abroad in the land, and the spirit of liberty which first inspired the Revolutionary leaders in 1776 has again entered the hearts of the American people. The people who form the rank and file of political parties are more progressive than their leaders. They will no longer submit to the rule of evasion and false pretense found in platforms, presidential messages, and public addresses. They demand straight talk and open, honorable methods.
>
> I hope to find henceforth that the millions of intelligent men of labor, having passed beyond the influence of campaign buncombe, have come to understand that the welfare of the people and the promotion of the cause of labor are more important than any party candidacy or empty partisan success.
>
> In the progress being made toward popular rule, now seen not only in our own country but in all nations, labor can justly claim an important if not indeed a leading part. In this movement international boundaries may be disregarded. The manhood and intellect associated in the war for the rights of men, differentiated from those

of wealth, privilege, and hereditary rank, belong to no particular race, class, or nationality. The spirit of liberty and self-assertion overleaps mountain ranges and speeds across the seas separating empires and continents. It can not be stayed by kings, nor by injunctions and jail sentences.

True progress has never been by rapid strides, notwithstanding that a change from the old to a new order comes with a suddenness which is almost startling, when after a long period of dissension and preparation the people are ready. Labor has been patient and persistent, enduring many wrongs and sacrifices. There should be no retreat from the points of vantage it has conquered.

Labor's contentions of many years have at length become merged into or have rather coordinated with those of the progressives of all parties. The people as a whole, irrespective of class, condition, calling, or partisan alignment, have declared for freedom in fact, and not merely in name. They are taking affairs political into their own hands. They will no longer tolerate the sale of legislation to the highest bidder or the granting of franchises to the richest bribe giver. Under the coming régime assuredly there are to be no more court decrees entered as prepared in advance and ordered by the attorney for the stronger party—stronger politically or financially. Along with these abuses will depart the midnight injunction and the policeman's ready club, at the behest of those claiming a property right in the labor of the vicinage, whether at work or on strike. In lieu of the political boss and his machine, we shall have leaderships of intelligence, pleading for public justice, with adherents proportioned in number to the strength of the arguments. The stuffed ballot box, the false count, and the perjured election return will likewise disappear.

With these opportunities, with these stimulating inducements to free thought and action, the cause of public justice will be advanced in all directions. Labor, acting from the point of enlightened self-interest and yet with a full sense of responsibility respecting the just rights of all others in society, will manfully and patriotically meet its enlarged responsibilities.

Under the prevailing system of cut-and-dried platforms and slated nominations, preceded by fake primaries, the ballot in our hands has not been, in any adequate sense, either a protecting shield against wrong or a means of redress. We may not for some time be entirely rid of the rule of parties. If they be an evil, they are such as are incident to all governments based on popular suffrage. I deem it unwise, or rather impolitic, to waste our energies now in efforts to abolish political parties. Perhaps they are institutional in all free governments. But if we can not destroy them we may, by more assiduous and regular exercise of our privileges and rights of citizenship, do much in the way of controlling them.

Under existing conditions we must obtain various measures of legislation at the hands of dominant parties in legislative bodies, and if party affairs are to remain in the hands of corporate agents and corrupt bosses as heretofore, then our interests will be imperiled and the desired end retarded no matter which party has the majority.

But political parties should, after all, be treated as means to an end. The success of a party should never outweigh the accomplishment in legislation or administration of the important purposes of labor. In casting our ballots we should ever distinguish, whenever possible, between our friends and our enemies, and between these should be no division on party lines among us. On general party issues it would be useless to attempt bringing about unity of action, and perhaps it is better in the long run that such is the case. But when we are seeking legislation from Congress on so vital a matter as curtailment of personal liberties, including the right of free speech and free press, we should be a unit in opposition to candidates who stand in the way, no matter how exalted the office sought by them.

Senator NELSON. I do not like to interrupt you if it is not agreeable, but sometimes questions and answers clear up the situation.

I would like to ask this question right at this point: Do you or do you not consider the right to carry on business or the right to work per se is a property right?

Mr. SPELLING. I do not; and that question seems now to be important.

Senator NELSON. I will not interrupt you if it does not suit you. I do not want to interrupt you to embarrass you. I want to get my bearings as I go along.

Mr. SPELLING. I have allotted to me a very limited time. If I can accomplish one purpose in this argument and no more, I desire to

accomplish that. I will endeavor at once to satisfy you on that point.

I will call attention to High on Injunctions, fifth and latest edition, section 20b, which is a new section, and to a long list of authorities therein cited, old and new. He says:

Equity has no jurisdiction to restrain the commission of crimes or to enforce moral obligations and the performance of moral duties; nor will it interfere for the prevention of an illegal act, merely because it is illegal; and in the absence of any injury to property rights, it will not lend its aid by injunction to restrain a violation of public or penal statutes, or the commission of immoral or illegal acts.

Mr. Hines brought before you and read to you section 20; what I have here read is section 20b. Section 20 uses the words "civil rights." I wish I had what he read to you, but it is in the record. The context even of section 20 shows as clearly as daylight that the word "civil" was used there to distinguish civil rights—that is, the rights that are maintained by civil actions—from those that are enforced or vindicated in criminal cases, and it has no further office. A reading of section 20—that is, the balance of it that he did not read—clearly shows that that is what it means. It has no such meaning as that which he attributed to it.

The gong here rang to announce a vote in the Senate.

Senator NELSON. We will have to suspend until we go up and vote.

Thereupon, at 2 o'clock p. m., an informal recess was taken until 2.15 p. m., at which time the hearing proceeded as follows:

Mr. SPELLING. Speaking of the remedy by injunction, Pomeroy says:

It is necessary to show irreparable injury to a substantial property right, and if such injury is not clearly made out relief will be refused. (Pomeroy Eq. Juris., vol. 5, sec. 323.)

What I am about to quote now is from Pomeroy's Equity Jurisprudence, volume 5, section 324:

As equity deals with property rights alone, an injunction will not issue to restrain political acts of public officers.

Having shown by these authorities that equity protects property and property rights only, the next proposition is that business is not a property or a property right.

As authorities upon this proposition I cite E. & A. Encyclopedia of Law, pages 59 and 251; Bouvier's Law Dictionary, title "Property;" Black's Law Dictionary, title "Business;" Schuback *v.* McDonald (65 L. R. A., 136); Worthington *v.* Waring (157 Mass., 421).

Legally speaking, what is property? What is a property right?

I will first describe the property right. It is a right essentially connected with property, for instance, the right of possession—and I emphasize these words—entirely dependent upon the ownership legally or equitably of property. Such being the essential characteristic, there is no real difference between property and the property rights. Whoever owns the right owns the property, legally or equitably.

In the English and American Encyclopedia of Law at page 59 we find this definition of property:

Property means that dominion of indefinite right of user and disposition which one may lawfully exercise over particular things or subjects, and generally to the exclu-

sion of all others. Property is ownership, the exclusive right of any person freely to use and enjoy and dispose of any determinate object, whether real or personal.

I put emphasis on the words "and dispose of." You will see the reason presently.

From Bouvier's Law Dictionary, latest edition, I read the following definition of property:

The sole and despotic dominion which one man claims and exercises over the external things of the world in total exclusion of the right of any other individual in the universe. The right to possess, use, enjoy, and dispose of a thing.

On page 261 of the English and American Encyclopedia we find this definition of a property right:

In its proper use the term "property right" applies only to the rights of the owner in the things possessed.

I read that for the purpose of showing that there is really no distinction in law between property and property rights. It may take a little consideration to see it, but that is the conclusion to which all must come who study this subject intelligently.

Let us now ascertain how business is defined, and we shall see that it does not come within either of these definitions—I mean the definition of property and the definition of property rights.

Black's Law Dictionary says:

A matter or affair that engages a person's attention and requires his care; an affair receiving or requiring attention; specifically, that which busies or occupies one's time, attention, and labor as his chief concern; that which one does for a livelihood; occupation, employment; as "his business was that of a merchant;" to carry on the business of agriculture——

Senator NELSON. As I understand, your position, then, is, first, that the right to do business, the right to work, is not in any sense a property right, and that injunction does not lie to protect anything but property rights. That is your position?

Mr. SPELLING. That is the proposition; and I would like to ask a question, if it were exactly proper, whether any member of the committee believes that equitable jurisdiction to issue an injunction is proper to protect a personal right?

Senator NELSON. Let me ask another question——

Senator O'GORMAN. I think it will be admitted that the proposition of law is perhaps correct. I know, for instance, that it was applied in the court of appeals in New York State, where the court refused to enjoin the publication of a libel upon the theory that injunctive process could not be invoked to prevent the doing of a personal wrong, except in so far as it might affect a property right.

But the second question suggested by the Senator probably more concerns most of us, Mr. Spelling, and that is your suggestion as to the right to continue a business not being a property right in your estimation.

Mr. SPELLING. Gentlemen, I call for a suggestion of some occupation for the mind or hand which is not the mere pursuit of pleasure or some purely benevolent work that does not come within the term "doing business."

But let me proceed. I have something on that right here, and I would be glad to tell it in response to the question by Senator O'Gorman. I have not finished reading the definition from Black's Law Dictionary.

Senator NELSON. May I supplement one point further? If your position is correct, then the right to form a labor union is in no sense a property right and is not under any circumstances entitled to the protection of law.

Mr. SPELLING. I do not say that; I do not go that far; but it is no more entitled to an injunction than the right to breathe. I have always said that, and there is no intelligent labor man in the United States that does not agree with me. They go further, and say the right to blacklist, practiced by the employers, which exactly corresponds to the boycott by labor, is not entitled to protection by injunction; that is, laborers are not entitled to protection against it by injunction.

Senator O'GORMAN. Where those writs have been granted with respect to the blacklist, has it not been upon the ground that a property right was invaded?

Mr. SPELLING. Senator O'Gorman, I know of but one case in the judicial history of the United States in which an injunction was sought by labor against the blacklist. That was in the case of Worthington *v.* Waring (157 Mass., 421), and the court refused it on the very ground, and made the very argument that I am making here to-day, only that it made it a little better.

The right to do business! They will get out an injunction against a violent assault on a man who is seeking the job of a unionist. They base it on the allegation that their right to do business is interfered with by that act of the strikers. That simply means, when you come down to the essence of it, that they claim a property interest in that man who is seeking the job.

It is the same way as to boycotting and all these acts in which these disastrous restraining orders and writs are issued, even if they are entitled to protection of the right to do business against those acts which we might agree are unlawful; even in that event you have to make the right to protection coextensive with the claim. You have to give them the right to protect themselves against the strike, because that is a more direct and a more serious interference with the right to do business. The courts all concede you can not do that.

This case in Massachusetts (Worthington *v.* Waring) is of interest in this connection. The views of Mr. Justice Holmes have become the settled law in the State of Massachusetts. In one case (Verghelan *v.* Guntner, 167 Mass., 92) Justice Holmes asserted this doctrine, and that has become the settled law in the State of Massachusetts. It was recognized in Pickett *v.* Walsh (192 Mass., 592).

This right to do business is simply a personal right. You gentlemen are "doing business" now. You are not engaged in philanthropy or benevolence, nor is it any mere pleasure.

I will read a little further from Black's Law Dictionary. I am reading now the definition of "business." I am really talking about the right to do business.

Following what I previously read, Black's Law Dictionary says:

> That which is undertaken as a duty of chief importance, or is set up as a principal purpose or aim. For instance, "The business of my life is now to pray for you." (Fletcher, Loyal Subject, IV, 1.)

I am reading now from the definition in Black's Law Dictionary. Black, Anderson, Bouvier, Century, and Webster, all the lexicographers, agree in their definitions of property and business.

The right for which they seek protection by injunction is not this abstraction, this mere figment of the imagination we call business, but the right to do business, and that right is as broad and comprehensive as humanity. That is what would make the extension of equitable jurisdiction to the protection of the right to do business so dangerous, so utterly destructive to American institutions.

The courts have thus far discriminated against a class—that is, the labor class—by limiting and confining that doctrine and that practice to cases in dispute between employing capital and labor, and they have never in a single instance extended it to any litigation between business men or men belonging to the business class, nor between members of any other class.

DO ABUSES EXIST?

Abuses in issuing and enforcing injunctions do exist, and so serious have they been that two Presidents—one of whom had been himself a judge—were compelled, presumably by sense of duty, to send messages to Congress calling attention to them and suggesting legislative remedies.

Every well-informed lawyer in the country knows that such abuses exist, and some judges have spoken of them in condemnation. And yet there has not been a suggestion from one of the half dozen counsel appearing in opposition to this bill that Congress should amend the law in any particular. On the contrary, you may read each argument in turn, and you will find that every single feature and provision of the bill, from the general purport to the minutest detail, is bitterly assailed, and the same old decisions and the same old threadbare arguments employed in one speech after another. As showing the attitude of the opposition, I call attention to the fact that the character of opposition before the House committee was just as vindictive, just as unyielding, just as uncompromising, just as hardened against reason as before this committee. At the hearings before the House committee one of its members said to the gentleman whom I consider the leader in opposition, Mr. Davenport:

I should like to ask you this question: In the course of an experience which has been more extensive than that of any other man I know, has it come to your observation that the writ of injunction, in its issuance, is abused in any way at all?

The reply was:

Never. They are really very hard to get.

Then he was asked:

Is there any suggestion that it occurs to you to make for a change in the administration of the law?

And he replied:

No; not even the one contained in the proposition of Mr. Moon in the last Congress.

The Moon proposition was offered in the House as a substitute for the bill which passed the House by a vote of 243 to 31, every Democratic Representative voting for it. The substitute was defeated by a vote of 48 to 220.

I can not, of course, quote from the presidential messages; but during Mr. Roosevelt's incumbency he urged legislation in messages of the following dates: December 5, 1905; January 31, 1908;

March 25, 1908; and December 18, 1908. President Taft included recommendations for such legislation in messages dated December 7, 1909, and December 6, 1910. Over and over, in these messages, it was declared that abuses exist and that it was the duty of Congress to legislate on the subject.

Mr. Davis of West Virginia, a member of the House Judiciary Committee, summed up the principal forms in which these admitted abuses have appeared in a speech in the House on the Clayton bill, May 14, 1912.

He was answering another member of the committee who had asserted, as counsel have asserted here, that there have been no instances of judicial abuse herein. Mr. Davis said:

> I accept the challenge of the gentleman from Pennsylvania, Mr. Moon, and assert that if the testimony of the witnesses before the committee did not disclose them, still the reported cases will show at least five glaring abuses which have crept into the administration of this remedy. I name them:
> The issuance of injunctions without notice.
> The issuance of injunctions without bond.
> The issuance of injunctions without detail.
> The issuance of injunctions without parties.
> And in trade disputes particularly, the issuance of injunctions against certain well-established and indisputable rights. These are the evils which this bill seeks to cure.

But there are other authorities upon the necessity for legislation to correct not only uncertainties in the practice but erroneous views of judges as to their powers. I quote from an authority which has been freely quoted by counsel in opposition. I refer to Martin's Law of Labor Unions. He says in his preface:

> There is, however, a great lack of harmony in the decisions relating to trade disputes, and many of them, it is believed, erroneous in principle and oppressive and unjust to organized labor. In this category may be placed decisions which hold without qualification that strikes or threats or strikes to procure the discharge or prevent the employment of workmen are unlawful and criminal, as being unwarrantable interference with the business of the employer, and an invasion of the rights of the workmen against whom these acts are directed, denying unions the right to exercise disciplinary measures in accordance with their rules and by-laws, to compel insubordinate members to join in a lawful strike or continue on strike after going out; holding that all picketing is unlawful; enjoining unions at the instance of an employer against whom a strike is in operation from giving strike pay or using its funds in furtherance of picketing; requiring defendants against whom a writ of injunction, defective and ambiguous in its terms, has been awarded, to ascertain—or, more properly speaking, to attempt to ascertain—what is prohibited by reading the writ in connection with the bill.

Senator NELSON. You know, Mr. Spelling, that this new party that is forming is criticizing both the old parties on the ground we make too much of property and pay no attention to persons. You are aware of that fact, I suppose?

Mr. SPELLING. Yes, I am. I have no hesitancy in indorsing the principle, whether it is in the Progressive platform, the Republican platform, or the Democratic platform, though I do not commit myself to the denunciation of parties. I think that is a great evil and the danger of the times. It is not a proper function of the Government, to promote business prosperity, or to promote prosperity at all, except as an incident to guaranteeing men an equal opportunity; that is, protecting them from special privilege, and from those persons and institutions which obtain exclusive opportunities through legislation, and therefore get an advantage in this matter of pursuing prosperity, which is part of the scheme of pursuing one's happiness.

So, if anywhere I see a statement that it is a proper function of the Government to promote the welfare of the individuals in the community as a whole, that it is the principal function of government to do that, I indorse it.

I think there is such a thing as too much prosperity, unless it were better distributed.

Senator O'GORMAN. That would correct it—that fair distribution of prosperity.

Mr. SPELLING. Not an equal distribution. I would be willing, if enough would agree with me, to bring about a fair distribution of the accumulated wealth of the country, but I have no plan of my own, and I have not seen a practical plan for doing it thus far.

Here is what I say: Business is of inumerable forms. It may be incident to the ownership or use of property, or entirely foreign to such use and ownership. It is the business of the naturalist to travel and investigate. What I am now doing and what the members of this committee are doing is business, just as much as what any employer of labor is doing or has been doing.

All of any employing corporation's property, including its good will—I expect to encounter some trouble on that last proposition pretty soon, but I am ready for it—all its assets is the product of labor; part of that labor. Part of that labor and not part of that property is the doing of business.

One element of all the definitions of property is that it may be disposed of; that is, it is assignable. Just now I placed emphasis on the words of this definition, "the right to dispose of." It must be assignable or it is not property. The only exception is in the case of what is known as a pure equity. One's business has no quality of an equity, and so that need not be considered. Hence, lacking the essential element of assignability, it is neither property nor a property right. It is an indeterminate, natural, and personal right. If a man die, all his property, including the good will, if any, created by exercising the right to labor—that is to say, by exercising the right to do business—is distributed to his next of kin or his devisees. But his business ends; it is gone forever. This applies to men of all conditions and classes. Within the legal definitions there is hardly a man in the world without a business. Even if a man be sick and bedridden, he has, as his chief concern—that is, his business—to get well if he can.

The reasoning in boycott cases is the same as in strike cases. For the same reasons that an employer has no vested or property interest in his employees or in their capacity to serve him, a dealer has none in his customers.

Let us take any boycott case before a court for an illustration of my argument. Nobody is threatening to injure the plant or other actual property of the plaintiff. What is left as property or as a property right to support the action for an injunction? Merely that imaginary thing, the plaintiff's business, his right to live, to seek prosperity and accumulate wealth, or to seek a job and gain a competence from wages.

I now undertake to demonstrate, as a legal proposition, that business is a mere abstraction and is not and can not be proved or argued into the legal meaning of property or property right, by any amount of proof or argument.

I have sought in the opinions of judges a good expression of my idea, and found it in the case of Schubach *v.* McDonald, a Missouri case, reported in 65 L. R. A., at page 136, where the court, speaking of the right which can be made the basis for an injunction said:

> The abstract right must assume a concrete form before it becomes property in the judicial sense, capable of judicial protection.

If "business" be not property, much less is the abstract right designated as "the right to do business." The right to do business clearly belongs in the class of personal rights; for instance, with one's right to practice law, his right to travel. A complainant's business and right to do business are as unsubstantial and purely ideal and personal as that of a metal polisher or foundry man to seek and obtain employment.

As the question of judicial interference in disputes between labor and capital has never been discussed in any of the cases with any special reference to this point, and as judicial views, as well as the decisions, are in conflict, I desire to illustrate this point, and I will begin with a truism and a maxim. My truism is that each man is the equal of every other man before the law. That is a little old fashioned, but I believe that as a principle it still lives.

My maxim is that "equity delighteth in equality." Nobody can dispute that.

Now, for the illustration: Here is a man; we will say his name is Smith. He enters the employ, as a metal polisher, of Mr. Jones, who is the proprietor of a stove factory. By entering such employment he becomes a business man as well as an employee. He is engaged in a business pursuit. He is not engaged in philanthropic work, but business. Polishing stoves is his business. In other words, he is exercising the right to do business. He has police protection against personal annoyance. Would anyone be so absurd as to contend that he could protect by injunction his bare right to polish stoves; that is, his right to accept employment and perform the duties of a stove polisher? He receives his compensation in definite stated sums at stated periods. There is Mr. Jones, the proprietor, his employer. He stands in the place of a corporation, subsequently succeeding Mr. Jones in business, and the illustration holds good. Mr. Jones works at the same establishment but mostly with his brains. He gets his pay in the form of profits when there are any. His pay is uncertain and somewhat speculative as to its amount; but that is wholly immaterial. As to all his tangible property, real and personal, and as to all his property rights, such as choses in action and incorporeal hereditaments, he may in a proper case be protected by injunction, but not, I insist, as to his personal right to do business.

We will suppose that Mr. Jones dies and a corporation is formed to take over the whole plant. The corporation takes his place as proprietor. It of course succeeds to no greater personal right to do business than its predecessor enjoyed or than any other business man enjoys. Mr. Brown becomes president and continues devoting labor to the new business. He is as much entitled to protection to protect his employment as Smith, the polisher, the employee, to protect his job, or as the corporation to protect its business; that is to say, neither he nor the corporation has any such right whatever.

Senator SUTHERLAND. I came in after you began this discussion, and I would like to understand just your position. Do you take the position that under no circumstances is the right to do business a property right?

Mr. SPELLING. I do.

Senator SUTHERLAND. Suppose I own a piece of real estate. I have a right to sell that real estate. Is not that right a property right?

Mr. SPELLING. Your interest in the land is a property right.

Senator SUTHERLAND. Is not the right to sell it a property right?

Mr. SPELLING. I might add to that by saying that that is not equivalent to the right to do business.

Senator SUTHERLAND. I am coming to that.

Mr. SPELLING. Answering your question categorically, I will say no.

Senator SUTHERLAND. It is not a property right?

Mr. SPELLING. It is not. It belongs to the great category of personal rights. Your right to sell the land is not property or a property right in any sense until it assumes a concrete form and you have made a contract to sell it. Prior thereto the right of alienation is wrapped up in your title. It has no separate existence as a right, legal or equitable. I have the general right to sell land, and that is all you have, notwithstanding your specific ownership of land, until you have actually made a contract to sell.

Senator SUTHERLAND. The right to retain property in my own possession is a property right?

Mr. SPELLING. Certainly.

Senator SUTHERLAND. But the right to sell to some other person is not a property right?

Mr. SPELLING. That is not a proprety right, independent of the individual title. It stands on the same abstract footing as my general right. To test the matter, how could you even make a case calling for an injunction to protect such a right?

The CHAIRMAN. What about the right to use the property?

Mr. SPELLING. The right of possession is a property right that goes with the property and the use goes with the possession.

The CHAIRMAN. What about the right to use the property?

Mr. SPELLING. It is an essential ingredient of the ownership of the property, an incident to possession.

The CHAIRMAN. It is, then, a property right?

Mr. SPELLING. Oh, certainly, the right of possession is. The use is essential incident to ownership. A man can divest himself of the right of possession as he can of any property right, by renting it to somebody else. He then has the right of ownership in the property and the tenant has the use in the possession, both as one; they are inseparable. Both are entitled to protection by injunction.

Senator O'GORMAN. Mr. Spelling, I understand you to say that in numerous injunction suits, especially those affecting strikes, the question has not been determined by the court that the right to continue a man's business is a property right. Has it not been so determined by the courts?

Mr. SPELLING. The right to continue business as a property right?

Senator O'GORMAN. Yes.

Mr. SPELLING. Senator O'Gorman, it has been decided in case after case that that right to do business is entitled to protection, and it

has been given practical application time and again by State courts and Federal courts.

Senator SUTHERLAND. The courts have called it a property right, have they not?

Mr. SPELLING. I think some one or two of the courts have in so many words.

Senator SUTHERLAND. In the Adair case did not Justice Harlan call it a property right?

Mr. SPELLING. The Adair case has been brought up here by every attorney in opposition without an exception, and they take some words of Justice Harlan in the grand rhetorical discourse in that case in which he said this right of the railroad company to make contracts is a property right as well as a personal right. He said that.

But let me say before I revert to that Adair case it has been my policy in all the arguments I have been making before committees of Congress for years and years on this subject to treat these decisions that have been paraded before you in long array as a class. I do not discuss them except in a class.

Coming back now to the Adair case, Justice Harlan did say that and used that expression just as I have given it to you. But let me call your attention to something else he said in the same case.

He said that laboring men have the right to sell their labor, and the employer has the right to buy their labor, just as if it was something that was canned up or on tap awaiting the first purchaser to deliver it to, whereas a contract of employment merely creates a personal relation.

Of course, if labor could be put in cold storage or tied up in packages and sold to the first man that came along who wanted it, then Justice Harlan is right, because a contract to sell goods is a property right, to be protected by injunction. But without a break from that expression which I have just used, he went on to say that the employer had the right to discharge the employee and the employee had the corresponding right to quit the employment, and that there was no remedy unless it was a suit for damages. And he cited a long list of authorities, and among those authorities was Arthur *v.* Oakes, decided by himself, denying the right to injunction to protect this right to make contracts with workingmen to work for wages.

Senator O'GORMAN. Where is that case reported?

Mr. SPELLING. In 63 Federal Reporter, page 310.

It is not necessary, and I do not now consider it necessary, for me to take up these cases and try to review them and their doctrine. I will admit that this fallacy, this heresy, that the right to do business is property, has been sustained in some courts—that is, in quite a number of cases, State and Federal. If that were not true, gentlemen, the proponents of this measure would not be here to-day seeking legislation.

Senator O'GORMAN. You propose by this act to change that law as recognized heretofore in the courts? Is that correct?

Mr. SPELLING. This bill does not prevent the courts holding business to be property. Nevertheless, when you provide that they have to——

Senator O'GORMAN (interposing). Is that the point? Assuming the courts have gone wrong on that proposition, how is your argument before us relevant, if, as you say, this act does not attempt to interfere with that rule?

Mr. SPELLING. I was just proceeding to say—I had not answered your question, but I will in a moment—that you will find, if you examine these cases of which labor complains, that every one of them, without exception, is based on this assumption, that the right to do business is property. Every one in which there has been an abuse, every one in which the complaints were defective and the orders were too broad or too vague, could never be issued except on that assumption, that the right to do business is property, and that is the reason I dwell on it to show the real need of legislative action.

I want to answer the Senator's question before it passes out of my mind.

It is relevant here on account of section 266b and part of section 266c. They require that the complaint shall—I do not know that I can quote the language of the bill—describe the property or property right "with particularity."

Senator O'GORMAN. That is, that the order shall be specific in terms and shall describe in reasonable detail and not by reference to the bill of complaint.

Mr. SPELLING. That is one provision. Also it contains this additional and very valuable provision, that the alleged irreparable injury—I do not know that I can give the exact language of the bill—shall be set forth and described in detail or with certainty in the order. Section 266c says that no restraining order or injunction shall be granted "unless necessary to prevent irreparable injury to property or to property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application" and so on. I consider that provision of the bill a valuable safeguard against abuses.

If a court will try to do its duty, and will scrutinize the complaint according to this bill, if it should become a law, it will be difficult for these learned and cunning and scheming attorneys, these enterprising fellows, zealous for big business—that is, for the corporations for whom they work—to evade the law and procure the issuance of injunctions on defective complaints, as they have been doing heretofore, getting broad, sweeping injunctions and restraining orders which hardly gave the men a chance to breathe, and then surreptitiously withdrawing the papers, so that nobody could ever call them to account or hold their clients responsible. And the working people who have been demoralized and dispersed by a proceeding of that kind have no remedy on earth.

Senator SUTHERLAND. What do you mean by that?

Mr. SPELLING. This is one of the abuses that section 266b and part of section 266c, in regard to the order, and what the order shall contain, and what the complaint shall contain, intends to protect them against.

Senator SUTHERLAND. What do you mean by "surreptitiously withdrawing the papers"?

Mr. SPELLING. I do not want to become a witness to facts, and I do not want to be drawn away from the line of my argument.

Senator SUTHERLAND. Does that mean withdrawing original files from the court?

Mr. SPELLING. It has been my personal experience and I have made search for the complaints in these cases and for the original

order on file, and I have sent to various clerks of courts, and almost invariably the answer comes back that they can not find even a scrap of the record. Right here in the District of Columbia—I will come so close to you that I would not dare to prevaricate—in 1906 one of these blanket injunctions was issued against the Columbia Typographical Union.

Mr. EMERY. Bender *v.* Typographical Union?

Mr. SPELLING. No; Adams *v.* the Columbia Typographical Union. That was during the pendency of an argument before the House committee that it was issued. I started out to find that complaint and the original order. To make a long story short, there was not a scrap or a trace of them in the clerk's office. I was sent to the attorney for the plaintiff, and he pretended they were lost. If it becomes an issue, I will give the name of the person.

In the record made here by Mr. Monaghan, this committee called on him to produce the records in 34 cases. He brought just 3 complaints and 14 injunction and restraining orders, and put them in the record, and that is all.

In the argument I would make, if I had a good chance, I would take these up and show the total defectiveness of those complaints, and the infamy—I do not like to use so harsh a word, but I will say the iniquity—of issuing such restraining orders and injunctions as were issued in those cases. They are right here in the record, beginning at page 157, and may be inspected by members of the committee.

I will continue on in the line of my argument.

I was just demonstrating that the right to do business is not property. The magnitude of the corporation's business cuts no figure. It is in no better position than a match peddler in this respect. That is true unless we repudiate this maxim, this truism or constiutional principle, that all men are equal before the law.

Suppose now that Smith, the employee, hears in advance that the corporation intends to discharge him and files a bill to enjoin it. The corporation managers would be utterly astounded, as well they might be, and yet that corporation has no more a vested or property right in that abstract thing called "business" than the workingman has in the use of his hands and faculties. Surely, it will not be contended that the courts can discriminate in this matter, or that any chancellor could establish what we term "discriminating" or, to use a vulgar phrase, "jug-handled" equity.

In Worthington *v.* Waring (157 Mass., 421) we have a case whose principle and language is a statement in a slightly different form from that which I have been using. The facts appear in the part of the opinion which I am about to read as follows:

> We take the substance of the petition to be that the petitioners were weavers by trade and had been employed by the Narragansett mills, a corporation in Fall River, and that they demanded higher wages, which the corporation refused to give, and they then left work; and the defendants sent their names to the officers of other mills in Fall River on a list which is called a black list, and which informed these officers that the petitioners had left the Narragansett bill on what is called a strike, whereupon the defendants conspired together, and with the officers of other mills, and agreed not to employ the petitioners, with the intent to compel them either to go without work in Fall River or to go back to work for the Narragansett mills at such wages as the corporation should see fit to pay them. It does not appear by the petition that any of the petitioners had existing contracts for labor with which the defendants interfered. If the petition sets forth that such a conspiracy as constitutes a misdemeanor at common law—on which we express no opinion—the remedy is by indictment. If the injury

which has been received by the petitioners at the time the petition was filed constitutes a cause of action—on which we express no opinion—the remedy is by an action of tort, to be brought by each petitioner separately.

The only grievance alleged, which is continuing in its nature, is the conspiracy not to employ the petitioners, and there are no approved precedents in equity for enjoining the defendants from continuing such a conspiracy or for compelling the defendants either to employ the petitioners or to procure employment for them with other persons. (See Workman *v.* Smith, 155 Mass., 92; Carleton *v.* Rugg, 149 Mass., 570, 5 L. R. A., 193; Smith *v.* Smith, 148 Mass., 1; Raymond *v.* Russell, 143 Mass., 295; 58 Amer. Rep., 137; Boston Diatite Co. *v.* Florence Manufacturing Co., 114 Mass., 69; 19 Amer. Rep., 310.) It is plain, however, that the petition was drawn with a view to obtaining some equitable relief. It is well known that equity has, in general, no jurisdiction to restrain the commission of crime or to assess damages for torts already committed. Courts of equity often protect property from threatened injury when the rights of property are equitable, or when, although the rights are legal, the civil and criminal remedies at common law are not adequate; but the rights which the petitioners allege the defendants were violating at the time the petition was filed are personal rights as distinguished from rights of property.

Along that line, since we have become so accustomed to the use of the word boycott, I beg leave to submit that here was an instance of a boycott, one of the most vicious and reprehensible imaginable, only it was called a blacklist—in this case of Worthington *v.* Waring (157 Mass., 421).

In the Debs case, which was one of the cases that has been much used—overworked, in fact, in these hearings—it was not held that a court could, without property right as a basis, enjoin a body of strikers. There has been no end of talk about the Debs case, and it ought not to be necessary for me to say that it was based on two grounds of jurisdiction. One was the possession of the corpus of railroad property. The other was the right of Federal courts to protect the public against nuisances, a doctrine which had its origin in the right to prevent projections on navigable waters; but that is an exceptional jurisdiction; that is ancient doctrine, existing from time immemorial. The English Crown always was possessed of navigable waters and public highways and could always enjoin. I feel like apologizing, here and now, for being in the Debs case so often. But we meet it at every turn in the argument of the opposition. It would seem to have been their main reliance.

In that Debs case it was not held that a court could, without property right as a basis, enjoin a body of strikers. On the contrary, it was clearly recognized that a basis of property right was essential. In that case (158 U. S., 583) the court said:

> It is said that equity only interferes for the protection of property, and that the Government has no property interest. A sufficient reply is that the United States have a property in the mails, the protection of which was one of the purposes of this bill.

The court then proceeds to discuss such property in the mails, citing cases.

All such cases as the Debs case, all obstructions of railway transportation, can be enjoined by the Government if this bill shall pass as before. (See Debs case, 158 U. S., 587, and cases cited.) Injunctions will issue in such cases as heretofore, not only to protect property, but because such obstructions constitute public nuisances.

At the Fifty-ninth Congress the question of good will and the mooted question of its connection with the right to do business, again here brought up before the Senate committee, was brought up and met by me, I think fully; and any member of this committee will

be furnished with a copy of my argument in answer to Mr. Davenport on that subject.

The CHAIRMAN. Has it been printed?

Mr. SPELLING. It is in the House hearings of four and six years ago.

The CHAIRMAN. Perhaps if you can give reference to the document number it will help us to locate it.

Mr. SPELLING. It is in the House hearings of 1908, my argument, the only argument I made on the proposed injunction bill of that session. It was printed by order of the committee by the Government Printing Office in 1908, but was not given a number. It was entitled "Committee upon the Judiciary, House of Representatives, Sixtieth Congress. Argument of Mr. T. C. Spelling in favor of the so-called anti-injunction bill." The argument was made before the Committee on Wednesday, February 5, 1908.

At the close of the Fifty-ninth Congress I presented and filed a reply to a report to a subcommittee which brought up that proposition, and I went into it still more elaborately. A copy of that can be obtained by any member of this committee. I will do my best to see that any member of the committee who wants it shall receive a copy. I am not sure that they can be furnished. The men who made the report are not in Congress now, and I am not sure that they have returned the documents to the full committee or that they went into the record.

Senator NELSON. What is the substance of your views on this matter of good will?

Mr. SPELLING. Good will is property and entitled to protection by injunction, but it never did and never could arise in a dispute between employers and employees about wages or anything else. It is separable and distinct from the right to do business and from the business itself. I want to demonstrate that as nearly as I can.

Senator NELSON. Does not the question of good will include the right to do business?

Mr. SPELLING. The right to do business can be emphasized——

Senator NELSON (interposing). If a man can not carry on his business, how can he have a good will?

Mr. SPELLING. Your hypothesis is correct. A man can not create good will without carrying on business. Good will is a result of exercising the right to do business.

Senator NELSON. Then, while the matter is in its infancy, as it were, and getting started, it is not entitled to protection; but when it is accumulated and when it has been going on a sufficient length of time to constitute what you call good will, it is amenable to equitable protection. Is that your view?

Mr. SPELLING. The good will is entitled to equitable protection against any wrongs that can possibly injure it, and those wrongs can only consist in similation or imitation. Nobody in this country or any other ever heard of a labor organization or body of employees simulating or trying to imitate a trade-mark or otherwise to injure the good will of a business. At any rate, none of the attorneys for associations and corporations have ever found an instance of a threatened injury to the good will in any of these proceedings.

Senator NELSON. Is there any such thing as a good will appertaining to law business—to carry on the law business, or to carry on the business of a doctor, to be an engineer, or to be a laboring man?

Is there any such good will or anything like good will appertaining to such a trade or vocation?

Mr. SPELLING. It may be that what you have in mind is not good will but reputation. I doubt if a lawyer has any good will he can sell or assign—or an engineer, or a doctor, or any of the professions of life. Good will is something that is a mere fiction now anyway, because it is covered by trade names and trade-marks under State and Federal statutes.

Of course, at common law, and in the absence of statutes, there is such a thing as good will, and it is property; it survives; it survives the exercise of the right to do business: it survives the business itself.

The opposition to the bill has seemed to acknowledge their error in confounding good will and business after hearing the distinction clearly pointed out, as it was by me, both at the hearing in the Fifty-ninth Congress and in my reply to the report of the committee filed at the same session. At any rate they have ceased to harp upon it.

Mr. EMERY. May I make an inquiry?

Mr. SPELLING. I do not like to break into this. I will be through in a moment, and then I will be glad to answer you.

Good will and business are clearly distinguishable. It often requires some legal acumen—I address this to you, Mr. Emery—to distinguish between things which are similar and yet not identical. That is not the particular sentence I address to you, but what I am talking about as an entirety.

To repeat, it often requires some legal acumen to distinguish between things which are similar and yet not identical. But there should be none here. Our conception of the difference between good will and business ought to be clear.

Permit me to call attention to a fact which ought alone to remove the good will from the domain of discussion. No case of an injunction growing out of a labor dispute can be found in which the good will was ever referred to, and, indeed, it is impossible to conceive of an attack being directed against the good will by the disputants on either side of such a controversy.

Good will as property is produced in the same way that any other property is produced; that is, by labor, by exercising the right to do business.

In fact, the good will is a mere fiction as property, and under the modern régime of trade-marks and trade names and registry laws for these the good will never alone becomes the subject of litigation. The trade name covers the good will and is practically the only evidence of its existence. There can not, in the nature of the case, be any infringement of the property right in good will separate and distinct from the infringement of the trade name. Infringement can only consist in duplication or simulation. It is enjoined because it is a fraud upon the public as well as upon the owner of the trade name or good will. An infringement is never involved in a dispute between employer and employees, nor in any matter involving, relating to, or growing out of a labor dispute.

The good will, after its creation through the exercise of the right to do business, being property, may be sold or inherited after the business has terminated. For illustration, I could cite the case of a large publishing house in New York which, after a long and successful career, failed in business, its failure having resulted mainly from

disagreements with its employees. But the most valuable asset of the insolvent after its doors were closed was its good will—that is to say, its trade name—and that was sold to a new company for a large sum. That is a big publishing house that did business on Franklin Square.

I will answer your question now, Mr. Emery.

Mr. EMERY. Did I understand you correctly to say that good will can be disposed of, but was not protectable by injunction?

Mr. SPELLING. Oh, no; I never said that. The record shows that I did not. It can be protected from the only wrong that can do it any harm.

Mr. EMERY. It can be protected by injunction where it is disposed of to another person and the person disposing of it attempts to do it harm in the time covered by the contract of sale?

Mr. SPELLING. You are thinking of something that is not dependent on the existence of good will for its existence at all. What you are thinking of is a contract in reasonable restraint of trade. There is an exception to the general rule that restraints of trade are illegal. You may, in popular parlance, say a man sells his business, but he does no such thing in reality.

Mr. EMERY. I am referring to what the courts call it and what the terms of the contract call it.

Mr. SPELLING. Yes, I understand you. A man had conducted business here on Pennsylvania Avenue. He is an extensive dealer in clothing. Another man comes along and says, "I want to buy your business," and they agree on $10,000 as the purchase price. As a part consideration for that $10,000 is the stock of goods, or possibly a lease on the premises there. Another consideration or part of the consideration is the agreement of the vendor of the goods that he will not go into the same business again within a year or within five years. Although they may be in one instrument, there are two contracts in reality, and the one under which the man agrees not to go into business is in restraint of trade, but it is permissible, because under the common law it is reasonable, and under local laws in this country would be reasonable, and might be under the Supreme Court's decisions. I do not want to take up those decisions, however, this afternoon.

Mr. EMERY. With your permission, I want to call the attention of the committee to your statement respecting an argument made before the committee of the House on the subject of good will and the right to do business as property rights, as distinguished from the thing in which they exist, and to ask if you will recall that the subcommittee, consisting of both Democratic and Republican members of the Judiciary Committee of the House, after hearing arguments on both sides, reported to the House, in answer to their inquiry as to whether or not the right to do business was itself a property right, subject to protection by injunction as distinguished from the real property or personal property which might be the subject of the right to do business, and in 1908 the gentleman will remember that subcommittee did report to the House, the Democratic and Republican members being unanimous in their conclusion, that the right to do business was a property right, subject to protection by injunction. That report is on file.

Mr. SPELLING. I do not know, Mr. Emery. I think really that they got ashamed of their report—though perhaps I should not say that. I know that no action was ever taken except to prepare a report.

Mr. EMERY. The Judiciary Committee was formally asked to report on that subject to the House. The Judiciary Committee delegated that task to a subcommittee, which reported to the Judiciary Committee, and they took the report and gave it to the House in the form of a formal report.

Mr. ARTHUR E. HOLDER. If I may be permitted, I think Mr. Emery is a little in error. That subcommittee only reported to the full committee. It was never reported to the House.

Mr. SPELLING. Of course, that is true; and I do not think the full committee ever paid any attention to it. I do not think they ever received the report. I might go further and say that my reply to it was so conclusive—though that may be assuming too much—but it was so satisfying that that question was never raised again, although the question was argued before the House committee, and it was not raised again until the Sixtieth Congress, and then there was a colloquy about it between myself and the members of the committee—you, Mr. Emery, and Mr. Davenport, and other attorneys in opposition sitting there and never saying a word; but you did not say a word in your argument, either. The committee was completely satisfied and the matter never has been heard of since except here, not even in all the hearings before the House committee.

Mr. EMERY. So completely satisfied that you remember Mr. Littlefield made your discussion on that matter the subject matter of his address to the House in May, 1908.

Mr. SPELLING. I was not aware that he had so complimented me. If Mr. Littlefield made that the subject, with all his ability, he had a difficult task if he did justice to the paper itself. I do not dispute your word, however.

Senator NELSON. You think it was too big a text?

Mr. SPELLING. Yes; for Mr. Littlefield, on account of his bias, even with all his ability. He lives in my adopted State of New York, and is a man whom I, of course, respect for his abilities.

Senator SUTHERLAND. I would like to ask another question.

Mr. SPELLING. Certainly.

Senator SUTHERLAND. The Pearre bill, as I recall, in express terms provided that the right to do business should not be regarded as a property right, did it not?

Mr. SPELLING. Yes; that an injunction could not issue in any case except to prevent irreparable injury to property, or to a property right, and that the right to do or carry on business at any particular place or at all should not be held, treated, or considered as a property right, within the meaning of the act. That is not it literally, but that is the substance of it.

Senator SUTHERLAND. This bill follows in some particulars the Pearre bill, but it leaves out that particular provision. Do you know why that was done?

Mr. SPELLING. That was the very heart of the Pearre bill.

Senator SUTHERLAND. Why was that provision left out of this bill?

Mr. SPELLING. I do not serve on the House Judiciary Committee.

Senator SUTHERLAND. Can not you make a pretty good guess at it? Was it not because the House committee and the House itself did not want to go to the extent of saying that the right to do business should not be regarded as a property right?

Mr. SPELLING. You may be entirely correct, but I would not like to say so, not knowing. I have no way to account for what committees will do, or why they do it.

The CHAIRMAN. Mr. Spelling, perhaps you had better determine in your own mind what would be a good stopping place when you come to a point where you reach the conclusion of some particular subject, as it will not be long before we will have to go. We do not want to hurry you, but rather than break off in the midst of a proposition, it is better to finish one thing and not begin another.

Mr. SPELLING. I have already read the quotation of Mr. Hines from High on Injunctions, section 20. The extract which he read was as follows:

> The subject matter of the jurisdiction of equity being the protection of private property and of civil rights, courts of equity will not interfere for the punishment or prevention of merely criminal or immoral acts, unconnected with violations of private rights.

This was produced to give a color of justification to the use of the injunction in labor disputes for the assertion and enforcement of such personal rights as that of doing or continuing business, inasmuch as they belong to the class designated "civil rights," the same as the right to perform labor, notwithstanding it is a personal right which you can not protect by injunction, is a civil right—that is, as against a civil wrong. I might go further, and say you can not protect it as against a criminal wrong, according to the fundamental principles of equity, unless the criminal wrong is also an injury to property. But section 20 of High on Injunctions, and the part of section 20 which he did not read, constitute a complete answer to all he said on the subject.

Senator NELSON. There is a species of injunction in criminal cases where the man who makes a threat against a person's life or against his person can be brought before a justice of the peace and compelled to give bond to keep the peace.

Mr. SPELLING. That is the old English law, under a statute.

Senator NELSON. That is a species of injunction, is it not?

Mr. SPELLING. Not except under statute. That was an old English statute, which was referred to by Justice Bradley in Kidd *v.* Horry. He showed in what the error consists, and the error in many decisions that counsel in opposition here have cited is the same. They have taken as precedents English cases under that statute, and they have taken State cases under State statutes where the statutory authority or provision was not explained. Justice Bradley showed how this body of error and usurpation by many courts—if I may not use so harsh a term, this assumption of jurisdiction, has come about from an initial error which was committed by some court because of not paying attention to the real basis of jurisdiction in some case where the decision was based on statute; and then some other court would take that decision and render another erroneous decision, and the first thing we knew there was a great body of error built up in the form of judicial decisions. We are here asking Congress to demolish

it, because it can not be done in any other way, unless we allow it to permeate and poison the whole body of jurisprudence in this country.

I have explained where Mr. Hines got wrong and why he should have quoted that whole section, and I have quoted section 20b to show that he was wrong.

Counsel for the opposition appear unable to avoid occasional lapses of memory in recitals of their respective parts in the farce of killing time before committees, and during those lapses inadvertently admit the fundamental limitation of equitable jurisdiction to property rights. As instances in point, I quote the following:

Mr. Monaghan, at page 87, says:

> Under and by virtue of the Constitution of the United States no citizen can be deprived of life, liberty, or property without due process of law. When by proper procedure a litigant presents to a Federal court in equity facts showing that irreparable harm is threatened and that no adequate remedy at law exists, "due process of law" entitles him to the issuance without notice and hearing of a restraining order, to the end that his property may be preserved. The denial of this right is a denial of due process of law.

Mr. Davenport, at pages 22 and 23 of these hearings, said:

> Under the decision of the United States in this Adair case, and supported by a very large number of decisions everywhere, those things that in the Pearre bill were sought to be declared not to be property rights are property rights and would be covered by the first clause of this bill. But the bill goes on then to say that a certain class of acts attacking your property rights shall not be enjoined against, and this is the way it reads.

Mr. Davenport was then interrupted, as shown by the record, as follows:

> Senator SUTHERLAND. May I interrupt you again? I had understood—I do not know where I saw it or where I heard it—that it has been claimed that the provision in this bill now pending with reference to property rights would not include the right to do business. I wondered what the foundation of that was.
>
> Mr. DAVENPORT. In construing this bill I suppose the courts would say that what the courts had said time out of mind are property rights would be covered by that first section, and that when it says that "unless to prevent irreparable injury to property or to a property right" whatever fell within that definition of property would be covered by the term.
>
> Senator ROOT. You do not find anything of this language, do you, which undertakes to change the law in that respect?
>
> Mr. DAVENPORT. Not in that respect.

But why did they devote so much time and so much space to a discussion of that question with the fact before them that this bill does not raise the issue? I might ask myself the question why am I devoting so much time in answering? So far as I am concerned it is because it is an irrepressible issue, because it is the evil that has to be uprooted, and the committee shows a commendable as well as a deep interest in it, else its members would not ask questions which keep me on it. I am not complaining; I am also interested. It is the germ of the false assumption in all these cases of abuse in the issuance of injunctions and restraining orders.

I am not quite done in giving the admissions of counsel which go to establish the correctness of my position.

Mr. Hines said, at pages 30 and 31 of the record of these hearings:

> Mr. HINES. Limitation to property rights seemed designed to exclude remedies to protect the person and to protect personal freedom, although those remedies are particularly necessary in labor disputes.
>
> The limitation absolutely to property or to property rights seems to narrow, at least somewhat, the basis for equitable intervention. Pomeroy, in the sixth volume of his

work on equity, page 579, seems to recognize that equity will intervene to protect the right of personal freedom of a man to come to and from his work and puts the intervention on the ground of protecting that element of personal freedom.

We find in other cases the general statement that while equity jurisdiction will not be exercised for the enforcement of criminal law, yet it may be exercised for the protection of civil rights. It is true generally, and perhaps it is particularly true in the case of a railway company, that it will always be possible to demonstrate the existence of a property right; but, nevertheless, if the general doctrine of equitable intervention is somewhat broader than that, it seems particularly unwise to put this limitation here where undoubtedly one of the things which is most infringed is the right of personal liberty.

The CHAIRMAN. Would that term include the mere right to do business, for example, where a man has a stock of goods, the goods themselves not being interfered with? Could you say that the right of that man to continue his business and dispose of his goods was a property right?

Mr. HINES. I should say it would be an open question in the construction of this section. Undoubtedly he has a right equity ought to protect, and this section would seem to make it a question whether it is such a right that equity would protect in the labor disputes. The point I urge is, in view of the doubt that is cast upon the extent of the foundation of equitable interference in these cases, that the provision ought to be omitted, because if there is any class of cases where equity ever goes beyond these bare property rights, certainly this is the class of cases where it ought to do that thing, because the things that are involved here are so largely matters of liberty and so largely matters of protection of the persons of individuals who ought to be regarded as entitled to equitable protection when no other remedy is available.

Mr. Dillard, at pages 8 and 9, part 3 of the record of the hearings before this committee, said:

I trust it will not be extended; I hope it will not be. I desire to call attention to the fact, however, in passing, and in doing so to say this: The purpose of the injunction sought is, we will say, for the preservation of property. This being true, if it appears to the judge by a preponderance of the evidence that irreparable injury is likely to result, that property is likely to be destroyed, then it would seem to me sufficient foundation has been laid for the issuance of the injunction.

Senator O'GORMAN. I have always understood that to be the accepted rule in all jurisdictions, and the case you speak of seems to be the exception.

Mr. DILLARD. I am sure the rule, as I stated it, has been held in several jurisdictions.

If the committee please, I am willing to come here and go on with this argument hour after hour until I can complete it, if one member of the committee or any number that want to come and hear it will come, because I have scarcely entered upon the provisions of this bill.

I would like to take some of these complaints that are put into the record by Mr. Monaghan and some which I have at hand in the hearings before the House committee, these orders and injunctions and omplaints, and point out their defects and shortcomings so as to show a number of distinct and specific evils that this bill provides against. I would like to take up the constitutional questions, not to make a constitutional argument, but to answer the constitutional objections which have been aimed at and advanced here against this bill, which I think are utterly groundless, and yet, even though they might not have found lodgment in the mind of any member of this committee, those legal arguments of these counsel will be spread broadcast and read before other Members of the Congress—Senators and Members of the House.

Senator NELSON. It is your view, Mr. Spelling, that the right to carry on the business of manufacturing, say, agricultural implements is not a property right?

Mr. SPELLING. That is my view. If you will go a little further, we will perhaps get a little light if you will ask me the other questions in your mind, the same as have been asked in other hearings.

Senator NELSON. This relates to another feature of the bill. Assuming that this long table, here, is a manufacturing establishment, devoted to the manufacture of agricultural implements; let us suppose a big crowd of strikers, a dense crowd of strikers, forms all around this table.

Mr. SPELLING. Or around the building?

Senator NELSON. Around this table, considering it the manufacturing premises—a crowd so dense that no one can get in or out of the plant. They may not use any violence and may have no weapons; may strike nobody; but still the gathering of strikers all around this table may be so dense that no one can get in or get out. In such a case, would you want no injunction against that condition, or do you want that condition to exist?

Mr. SPELLING. No; I would want the injunction, and would want the owner to have the injunction.

Senator NELSON. That would be a case of picketing, would it not?

Mr. SPELLING. No; it would be a private nuisance. That is an exceptional item of jurisdiction, and while on first impression it does not seem to be based on property right, yet does not that disturb the possession, which is a property right?

The CHAIRMAN. It disturbs the use; it disturbs the exercise of the right to use the property.

Mr. SPELLING. Yes; anything that disturbs the right to use property disturbs the possession and is a private nuisance, and may be a public nuisance. If it is in the street, it is a public nuisance.

Senator SUTHERLAND. But in this bill you provide no restraining order or injunction shall prohibit any person or persons—and that means any number of persons—from standing at or near a house or place where any person resides or works or carries on business or happens to be.

Mr. SPELLING. Yes.

Senator SUTHERLAND. If we pass a law which provides that no restraining order or injunction shall prohibit any person or persons from attending at or near a house or place where any person resides or works, would it not be in the very teeth of that statute to issue an injunction against that large number of people attending about any house?

Mr. SPELLING. Oh, no. In a case like that, or in any case, applying this bill to any case that can be imagined, of a violation of city ordinances or statutory law, the police power lies outside of the letter and spirit of this bill. The last clause of this act says:

> Or from doing any act or thing which might be lawfully done in the absence of a trade dispute.

That colors all the preceding clauses, as counsel in opposition admit. And even without that, no court could consider the provision of this act as repealing any part of the police power, the duty of the police to prevent violations of the law and disturbances of the peace, the assembling of persons in such a way as to constitute either a private or a public nuisance, or assembling on any property where they did not have the legal right to assemble or did not have the consent of the owner, or which was not a public place where they had the lawful right.

The police have control of those matters now under the criminal laws, and they would still have that control, notwithstanding any-

thing in this bill, because there is not a word in it that you can put your finger on that even by implication, as I understand it, repeals or attempts to repeal any other law.

Senator NELSON. Let me ask a question right there. Does not one provision of the last section of this bill prevent any injunction in cases of what I may call a primary and secondary boycott?

Mr. SPELLING. That is a large subject of itself, Senator.

Senator NELSON. You need not go into a discussion of it, but is not that the purpose of the bill?

Mr. SPELLING. I do not know anything about the incentive in the minds of those who supported that bill in the House, and voted on it in the House.

Senator NELSON. Let me quote the language:

Or from ceasing to patronize or to employ any party to such dispute.

Does not that refer to a kind of boycott?

Mr. SPELLING. I think you really have in mind the next clause. That is the primary boycott you read, without a doubt. Is not the next clause, about advising and persuading, the one you have in mind?

Senator NELSON. This phrase I have read is the one I have reference to.

If I have the proper construction of that language, it implies that you do not want any injunctive process or restraining order in case of either what I call primary or secondary boycott. You want that right to be unlimited—without restriction. Is not that your purpose? Is not that the purpose of the bill?

Mr. SPELLING. I have no purpose.

Senator NELSON. I do not mean you, personally, Mr. Spelling; but is not that a part of the purpose of the bill?

Senator SUTHERLAND. Would not that be the effect of the bill?

Mr. SPELLING. I could not answer as to what Representatives had in mind; but I would like to make the response which I think you want made—my view.

Senator NELSON. Certainly; it is your view we would like to get.

Mr. SPELLING. You know the courts are in a state of hopeless confusion as to a distinction between primary and secondary boycott. I will give my understanding:

A primary boycott is any kind of a crusade between the original parties to a dispute, whether it is a labor dispute or any other kind of a dispute. In that case either party can refuse to trade with the other party or can ostracise him, I might say, in any other way. But he need not do that only. He can as well advise all his friends to do it. He can put in all his time trying to bring about the breaking up of that man's business.

Senator NELSON. Is that what you want?

Mr. SPELLING. While I need not try to justify that in morals, I say, without the fear of successful contradiction, that that is legal now and recognized as such by the courts. That is a primary boycott.

The CHAIRMAN. Do you mean friends similarly situated?

Mr. SPELLING. No; I would not limit it to that. The country is full to overflowing with boycotts. There are millions and millions of boycotts going on every day. It is not necessary to take a man's trade away from him. It may be by breaking his reputation and

destroying the peace of his home, or taking patronage away from his hotel. Sometimes a boycott is not only legal, but commendable. Wouldn't it be commendable to take business away from a hotel that is full of bedbugs and spiders? [Laughter.] But let us not get into these quibbles. Let us not get too facetious.

That is a primary boycott. A secondary boycott can not exist without a conspiracy being formed. A conspiracy is a distinct criminal act.

Senator NELSON. I do not agree with you about that.

Mr. SPELLING. The formation of a conspiracy, I should say, is a distinct criminal act.

Senator NELSON. What I understand by a secondary boycott is——

Mr. SPELLING (interrupting). I am trying to give you the definition. Let us get something to use for illustration. We will say that members of the polishers' union at St. Louis get into a quarrel with a stove and range company about hours of labor or wages. They withdraw their trade. They not only do that, but they go to everybody in St. Louis and try to induce them to quit trading with that stove and range company.

Mr. EMERY. Is that irrespective of the existence of a contract?

Mr. SPELLING. I can not answer that right now. I will in a moment.

The very court that decided such a case, the Court of Appeals of the District of Columbia, said that was legal and could not be enjoined. But suppose the metal polishers' union of St. Louis, a party to that dispute, goes to Cleveland and tells Mr. John Brown, a retail dealer in Cleveland, "You have been warned not to trade with such and such a stove and range company. You have been asked not to do it."

So far, so good. So far, legal. But if they go on and say, "If you trade with them to the extent of buying any more of their product, a boycott will be started in Cleveland by the members of the organization in Cleveland and members of other trades-unions, to deprive you of that trade," that begins a secondary boycott.

Senator NELSON. That is correct.

Senator SUTHERLAND. Do you think this bill has the effect to prevent the issuance of an injunction in that case?

Mr. SPELLING. I do not, because when they go to Cleveland and to the trades-unionists in Cleveland and agree together that they will start a trade crusade to take the business of John Brown away from him, that becomes a conspiracy, because the metal polishers of St. Louis have not any dispute with John Brown.

The CHAIRMAN. Is not that a property right? Is not the right of Brown & Co. to carry on their business a property right, according to your view?

Mr. SPELLING. No; I do not think, according to the fundamental and correct views of equity, jurisdiction, and jurisprudence, that any court should even enjoin those people from boycotting that firm in Cleveland, because it does not affect any property interests, unless you claim that Brown & Co. have a property interest in the detached patronage and trade of the country.

The CHAIRMAN. Then you would prevent an injunction to restrain that secondary boycott?

Mr. SPELLING. If I say that, Senator, it is outside of the issue before you and before this committee; but I do not hesitate to say

that for a court to enjoin those parties in Cleveland under that state of facts would be an unwarranted assumption of jurisdiction. It is an injunction issued to control men in the exercise of their personal relations and liberties. However illegal and criminal it may be, it is not within the function of a court of equity to become an administrator of the police law and power of a country or of any State.

The CHAIRMAN. Let me see if I understand you correctly. Your idea is that there is now no just authority under our system of equity jurisprudence to enjoin such secondary boycott, and this bill would put into the statute your view of the limits upon our equity jurisprudence?

Mr. SPELLING. Senator Root, I have not said that, nor have I intimated it. What I have said is totally inconsistent with any such conclusion, because I say that this bill forestalls and forbids and excludes anything unlawful; and that, whether it ought to be enjoined or not, as the law now stands, it could be enjoined, notwithstanding anything in the bill to the contrary, because that would be at least unlawful. I will admit that in a case like that, if those St. Louis metal polishers went there and got this agreement and arrangement with those Cleveland people, the conspiracy itself would be indictable under the common law and probably under the statutes of Ohio.

The CHAIRMAN. But does it not follow, necessarily, from your view, that it could not be enjoined?

Mr. SPELLING. That is my idea, that equity has not now any jurisdiction of the case.

The CHAIRMAN. It could not be enjoined? You would leave it to be dealt with by criminal law, and exclude it from the operation of equity jurisdiction?

Mr. SPELLING. It is totally immaterial what I would do. I will say this, and then you will understand me—that notwithstanding anything in this bill, on the numerous authorities that counsel have quoted here, that could be enjoined and would be enjoined; but as to whether it ought to be within the legitimate bounds of equity, there is another question.

The CHAIRMAN. Is it your view, if this bill passes as it is before us now, that that secondary boycott could be enjoined?

Mr. SPELLING. If the courts have been justified in the injunctions issued in cases heretofore or in some of the cases—for instance, in the Buck Stove & Range Co. case and in the case of the Toledo & Ann Arbor Railroad Co.—under the authority of those cases and this case in the District of Columbia that I have mentioned, that could be enjoined, because it is not a primary boycott, but a secondary boycott which, under the same authorities and other authorities, comes within the definition of a conspiracy.

Senator SUTHERLAND. If I understand you, your view is that this bill does not prevent the issuance of an injunction in that kind of a case; in the case of a secondary boycott?

Mr. SPELLING. That is my conclusion.

Senator SUTHERLAND. As I understand you, you say that in the absence of this bill the injunction would not be issued; the injunction on a primary boycott. If that be so, what does your bill accomplish in that respect? If the bill itself, properly construed, does not reach the secondary boycott and simply deals with the primary boycott, then it does an entirely ineffective thing, does it not?

Mr. SPELLING. You ask whether an injunction would be issued against a primary boycott. You do not ask whether they have been issued. They have been issued in some cases. It would get rid of these injunctions.

Senator NELSON. What I would like to hear you discuss is to point out in what respects this bill, if it becomes a law, gives labor organizations a greater right for their own protection, you might say, or for their own benefit, than they now have under the existing law as interpreted by the leading courts of the country; not isolated cases, but taking the judicial consensus of the country. Wherein does this advance the remedy for you? I would like to have that pointed out—in what respects this bill changes the existing rule and wherein it gives you any greater rights or privileges than you have now. If it does not give you any more rights or privileges, there is no use in passing the bill; but if it gives you more rights and privileges we want to know what they are.

Mr. SPELLING. I perfectly agree with you, and I do not want any greater honor or pleasure than the opportunity to comply with your suggestion.

Senator SUTHERLAND. I wish you would discuss, too, if you have not already arranged to do it, this feature of the bill which provides for the seven days' period for the operation of the injunction to begin to run from the date of entry of the injunction rather than from the date of service.

Mr. SPELLING. I will proceed now to comply with both requests, as best I can.

I will first answer Mr. Emery's question. I presume he means a binding contract; otherwise it would not be cognizable, either at law or in equity. A loose promise to trade with a party is not such a contract. There must, of course, be mutual promises of value, or a specification of the amount to be purchased and of the price. Such contracts are enforceable by either party at law, and might, perhaps, under some conceivable circumstances, which, however, I am not able to conceive, form the basis of a suit for injunction as between the parties. The matter appears to me entirely foreign to any issue before this committee.

Senator Sutherland has just asked me to express myself on the proposition of changing the seven-day term at the end of which a hearing on the application shall be had, so as to run from seven days after service rather than seven days after filing of the application.

There are several objections to such a change; but I could not state them all at this point fully without going over much that I have said or intend saying further on. But, in the first place, there is no necessity nor even a good reason for the change. Striking, picketing, and the like are not carried on by isolated or detached individuals, but by organized and officered bodies. And when you serve the leaders, if you bring on the hearing and sustain the injunction as to them, the strike or whatever the trouble will end there. As to those elusive and mysterious persons mentioned by Mr. Hines and other counsel who resort to secret misdeeds or open crimes, it would be useless and vain to serve them with a notice or restraining order, even if you found them. As to them seven days would be no better than seven years. My second objection would be that to allow the proceedings to hang over the labor organizations while searching for fugitives

would be both unjust and disastrous. Delay, as I have shown, constitutes a bad feature of the present practice. It is usually immaterial in a strike case, with respect to the effect of an injunction, whether it be properly or improperly granted. After all, labor's great concern is to have the issuance of restraining orders and injunctions stopped, except in the exercise of rightful jurisdiction. Neither in the matter of notice nor in that of security are workingmen greatly interested. They are interested in having the hand of the court stayed, unless the case be such that an injunction would issue without reference to their class or condition.

Mr. Hines and other counsel in opposition would have you believe that the members of labor organizations live in caves and tree tops or are so in the habit of skulking into dark alleys and byways that they can not be found within a reasonable time. But the whole plea is grossly and basely absurd.

Section 266c naturally divides itself into two separate and distinct propositions, contained in two paragraphs, the first of which reads thus:

SEC. 266c. That no restraining order or injunction shall be granted by any court of the United States or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to property right of the party making the application for which injury there is no adequate remedy at law, and such property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

The words occurring therein "between an employee and employers or between employers and employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions or employment," were constantly called to the attention of the committee by counsel in opposition, as a feature giving the bill the distinctive stamp of class legislation.

Were it not for the discriminations between classes in exercising the jurisdiction, this provision, like many others in the bill, might be stricken out, without great public detriment. The paragraph would then state the law as it is uniformly administered between parties where no labor dispute is involved. In many cases, where employers seek injunctions against laborers with whom they have a dispute, the language of this paragraph is turned round to read thus:

That restraining orders and injunctions may be freely granted by the courts of the United States, or the judges thereof, in any case between employers and employees * * * involving or growing out of a dispute concerning terms or conditions of employment, whether necessary or not to prevent irreparable injury to property or a property right, the party making the application being a business man, whether or not the party has an adequate remedy at law. In such case, no property or property right need be particularly described or even mentioned in the application.

The first clause of this paragraph to which I shall direct special attention reads thus:

Unless necessary to prevent irreparable injury to property or to a property right of the party making the application for which injury there is no adequate remedy at law.

Next we have the requirement added to the foregoing provision that the restraining order or injunction shall not be granted unless

the property or property right be described in the complaint, or application, "with particularity."

Much harm and abuse in labor cases are due to defects and shortcomings of complaints upon which restraining orders and injunctions are granted at the outset. I deduce three causes, either one of which, or all together, may operate to bring about the miscarriage of justice seen in each instance. These are, first, an insufficient complaint; second, a mistaken view of duty, as a matter of law; third, an unfortunate environment preventing a comprehensive view of the rights of citizenship, or a false conception of the relation between capital and labor. But I discuss now only the insufficiency of complaints.

I may safely assert as a general proposition to which, if there be an exception I have not seen it, that on two essential facts in all the cases the complaints are insufficiently specific to warrant the granting of the relief prayed. The complaints do not show (1) specifically that any property or propetry right is menaced with injury, or (2) in what way or by what means an irreparable injury would result if the alleged threatened act were done.

INSUFFICIENT DESCRIPTION OF PROPERTY RIGHT.

I need not here make any such point as that the right to carry on business is not property. For present purposes—that is to say, in this immediate connection—that is waived. But I make the point that additionally to that objection the allegations in the complaints with reference to property and property rights are insufficiently specific.

In Hitchman Coal & Coke Co. *v.* Mitchell (172 Fed. Rep., 963), in which one of the restraining orders already noticed was granted by Judge Dayton, taking that as fairly representative, the complaint recited that the complainant owned valuable coal mines, mining machinery, etc., that it had large capital invested, that its operations were extensive and its sales large. Figures of aggregates were given in connection with some of the recitals, and there was a general assertion of damage. No interruption of its operations was alleged up to the date of filing the complaint nor any shown to be imminent. Whether, therefore, any property or property right was involved at all in what the defendants were alleged to be doing was left to inference and conjecture.

DEFECTIVE ALLEGATIONS OF IRREPARABLE INJURY.

But the complaint fell still further short of the legal requirements that irreparable injury must be specifically alleged. Nothing is better understood, as the authorities used in the report from the House committee show, than that a mere general allegation of irreparable injury is not sufficient. And yet that is all that the complaint in the Hitchman case contained. The complaint asserted, as also in the case of Adams *v.* Typothetæ of America brought in the District of Columbia, that the strikers were under contract which, by striking, they were violating; but it will be borne in mind that a long line of decisions, among which is Arthur *v.* Oakes, has settled the rule that courts have no power to forbid men to strike merely because of their

being under contract to serve for a term which has not expired, and any other rule would violate the constitutional amendment against slavery and involuntary servitude.

And there is another reason recognized in all other cases, but too often ignored in strike cases, namely, that a violated contract is compensable and hence reparable in damages. But there is ordinarily, in fact, no damage or injury whatever in strike cases, because the injury actually suffered is such as was designated in National Fireproofing Co. *v.* Mason Builders' Association and other cases as damnum absque injuria—that is to say, injury suffered by a party by action of another in the exercise of a lawful right.

The complaint in the Hitchman case, like those in many others examined by me, was, notwithstanding its glaring defects, exceedingly verbose and voluminous, as if to make up in quantity what it lacked in quality. But it and the others contained the defects above noted and others as well.

To take up even one of these cases, analzye the pleadings and apply the law to the many and complicated facts, and then present the arguments necessary to overthrow the fallacies of counsel and subtle errors which have crept into the decision of the court would be a serious and stupendous undertaking. The fact is not to be overlooked that the wealth of the complainants in these cases enable them to employ the ablest counsel, to produce witnesses without limit, and to make extensive preparation precedent to sending out the thunderbolt in injunctive form; also that strikers have not the advantages and facilities just mentioned at hand to meet such a situation. There is always present the most important fact of all, that whether an injunction be issued rightfully or wrongfully, it usually does its fatal work, paralyzes the defendants, and ties the hands of their leaders, before even such presentation as they could make is heard.

Hence the importance of the establishment of correct rules to govern the courts, the same to be in force before the injunction or restraining order issues; hence also the importance and justification of the prohibitions contained in the second clause of section 266c.

IMPORTING A NEW ELEMENT INTO STRIKE CASES.

Of recent years counsel for employing corporations became conscious that without the importation of a new theory or doctrine into the law most of the applications for injunctions in strike cases must be denied, upon well-settled principles. Hence they imported the element of malice and made a distinction founded upon the purpose or incentives with which a strike was instituted. They undertook to analyze the feelings at work in the bosoms of the strikers. It must be apparent to all fair-minded and thoughtful members of the legal profession that where the thing done is itself lawful, the motive with which it is done or undertaken is unimportant, and that to allow courts of equity to sit in judgment upon the question of mental attitude in such cases is to completely unsettle all the law governing them and set up the chancellor in the midst of the labor organization at the inception of a strike as an arbiter of their conduct as well as a controller of their fates. It is not difficult to foresee the utter disruption and dispersion of labor organizations and complete failure

of all efforts of workingmen through organization and association to improve conditions if the attitude toward them thus assumed by the courts be maintained and no relief be afforded by legislation.

It is exceedingly difficult to see or even to admit any consistency or possibility of a reconciliation between the views of those who stand for such doctrine and their professions of a belief in the right of wage earners to freely assemble, to discuss without restraint those business and social matters which vitally concern them, to form and maintain an organization; in short, to exercise in a collective or organized capacity any rights except such as are purely academic and consistent with subjection to such industrial conditions as employers choose to impose upon them, however tyrannical, miserable, and inhumane. If the Federal judges, sometimes overawed by the presence before them as litigants of financial magnates and powerful interests, and often unduly impressed with the importance of large property interests and the promotion of commercial prosperity as against the lesser interests of labor, are to pass upon the motives or moral incentives instigating labor's side in a labor dispute, then every word and act at their assemblages and meetings are proper subjects for investigation and scrutiny, such, and only such, allowance to be made for human frailty, excitement, passion, and bias of self-interest as the judge sees fit to make. Under such dispensation what becomes of the constitutional guaranty of free assemblage, freedom of movement, and free speech? What becomes of the prohibition against involuntary servitude embodied in the thirteenth amendment, so eloquently expounded in Robinson *v.* Baldwin (165 U. S., 292), and more recently in Arthur *v.* Oakes (63 Fed. R., 310)?

Could any more complete and despotic one-man power over organized labor be conceivable than will result if this new absolutism be not stayed. It was first evolved and enforced by Judge Taft in Moores *v.* Bricklayers' Union (10 Ohio Dec., 165; 23 Ohio L. J., 48), while he served as a judge of the superior court at Cincinnati, and was followed up in similar cases decided by him while on the Federal bench. The language of Judge Noyes in National Fireproofing Co. *v.* Mason Bricklayers' Association (145 Fed. R., 260) is the mildest and most reasonable statement of that false doctrine that we have found. And yet it is not difficult to see that if the question of whether, in deciding to strike, the men are influenced by good or bad motives, is to be judicially injected into a case, it means the trial in each instance of an issue of reasonableness or unreasonableness of their demands upon the employer, and gives the court an almost unlimited discretion. Especially is this so since there is no jury trial in such cases, they being treated as of purely equitable cognizance.

Another and more recent application of this device for dealing with strikers is found in Paine Lumber Co. *v.* Neal, in which an injunction was issued in the southern district of New York in October, 1911, but not yet reported. But there have been many such subsequently to Moores *v.* Bricklayers' Union. I can not discuss them with any attention to details, although some account of them can be found in the hearings before the House Judiciary Committee, especially those of the Fifty-ninth and the present Congresses.

It is well, however, to state and to show that the new element above discussed has not been admitted into such cases without differences among the judiciary and a consequent conflict of authority. While

the tendency to accept it as settled law is clearly evinced in a few Federal decisions, a respectable number, if not a majority, of the State courts of last resort which have spoken have rejected it.

Now, let us carry along in adverting to a few State cases what Justice Bradley said in Kidd *v.* Horry, already cited, and remember that if I have a legal right to do an act, my motives are absolutely immaterial.

In McCawley Bros. *v.* Tierney (19 R. I., 255) the court said:

> To maintain a bill on the ground of conspiracy, it is necessary that it should appear that the object relied on as the basis of the conspiracy or the means used in accomplishing it were unlawful. What a person may lawfully do a number of persons may unite with him in doing without rendering themselves liable to the charge of conspiracy, provided the means employed be not unlawful.

In Clemmitt *v.* Watson (14 Ind. App., 38) the court, in passing upon the conduct of the defendants in a strike case, said:

> What each one could rightfully do, certainly all could do if they so desired, especially when their concerted action was taken peaceably, without any threats, violence, or attempt at intimidation.

Chief Justice Parker, speaking for the Court of Appeals in National Protective Assn. *v.* Cumming (170 N. Y., 315), said:

> Whatever one man may do alone he may do in combination with others, provided they have no unlawful object in view. Mere numbers do not ordinarily affect the quality of an act.

In Vegelahn *v.* Gunter (167 Mass., 92) Justice Holmes, now of the Supreme Court, but then a member of the supreme judicial court of Massachusetts, in a dissenting opinion said:

> But there is a notion, which lately has been insisted upon a good deal, that a combination of persons to do what anyone of them lawfully might do by himself will make the otherwise lawful conduct unlawful. It would be rash to say that some as yet unformulated truth may not be hidden under this proposition. But in the general form in which it has been presented and accepted by many courts, I think it plainly untrue, both on authority and on principle.

In Lindsay & Co. *v.* Montana Federation of Labor (37 Mont., 273) the Supreme Court of Nebraska said:

> But there can be found running through our legal literature many remarkable statements that an act perfectly lawful when done by one person becomes by some sort of legerdemain criminal when done by two or more persons acting in concert, and this upon the theory that the concerted action amounts to a conspiracy. But with this doctrine we do not agree. If an individual is clothed with a right when acting alone, he does not lose such right merely by acting with others, each of whom is clothed with the same right. If the act done is lawful, the combination of several persons to commit it does not render it unlawful. In other words, the mere combination of action is not an element which gives character to the act.

A review of judicial history bearing on the question immediately under consideration discloses that this modern doctrine of the Federal courts and some of the State courts is a resurrection, to meet the supposed necessities of particular cases, of an ancient English decision holding that the preconcerted refusal of certain workingmen to continue their employment, even though an advance of wages was their object, constituted a criminal conspiracy, which was an indictable offense at common law, although the same act done by only one individual would not have been unlawful. (See Rex *v.* Journeymen Tailors, 8 Mod., 11.) Of course, the case just cited is not the only case of that and the immediately ensuing period holding to that view, but a further investigation discloses that most or all of them

were controlled by drastic and harsh statutory enactments of that period. Judge Parker called attention to this, and to probable neglect of the courts to note the statutory origin of these early English decisions, in the case decided by him, as before cited.

The next clause required that "the application must be in writing and sworn to by the applicant or by his agent or attorney." Many allegations in complaints and affidavits filed in labor cases are made upon information or belief, which is a violation of well-settled rules of pleading.

No provision in this bill is aimed at that reprehensible practice. It was probably thought that none was needed, because defendants may always make that defect a ground for objection. The defect can be seen in bills of complaints placed in the hearings by counsel in opposition at the present session.

The second paragraph of section 266c reads as follows:

> And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business, or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute; or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peacefully assembling at any place in a lawful manner and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

The words "and no such restraining order or injunction" in this paragraph limits all that follows. First, the acts mentioned in this paragraph which can not hereafter be forbidden must be such only as are done in cases where employers and employees, etc., are parties; and, secondly, such as are done in cases "involving or growing out of a dispute concerning terms or conditions of employment."

And the order or injunction shall not prohibit "any person or persons from terminating any relation of employment."

I have already shown how the bogus element of malicious motive has been introduced into strike cases, and there have been some statements by opposition counsel, and consequently some misrepresentation as to what Justice Harlan actually decided in Arthur *v.* Oakes (63 Fed. R., 310, 317); but really there is no room for a misconstruction. He said:

> The rule, we think, is without exception that equity will not compel the actual, affirmative performance by an employee of merely personal services any more than it will compel an employer to retain in his personal services one who, no matter for what cause, is not acceptable to him for services of that character. The right of an employee engaged to perform personal service to quit that service rests upon the same basis as the right of his employer to discharge him from further personal service. If the quitting in the one case or the discharging in the other is in violation of the contract between the parties, the one injured by the breach has his action for damages; and a court of equity will not, indirectly or negatively, by means of an injunction restraining the violation of the contract, compel the affirmative performance from day to day or the affirmative acceptance of merely personal services. Relief of that character has always been regarded as impracticable.

Sitting with Justice Harlan at circuit in that case were other learned jurists, but there was no dissent from these views.

And, in this connection, I call attention to the priority of Judge Taft's decisions in Moores *v.* Bricklayers' Union, in the Thomas case, and in the Toledo & Ann Arbor case to this decision of Justice Harlan. It would appear, however, that Mr. Taft has never seen or had his attention called to the decision in the Arthur *v.* Oakes case. This must be true because the most recent expression of his views are directly opposed to those of Justice Harlan as expressed in that case.

The most extreme opponents of effective legislation, formally at any rate, concede great latitude in the matter of severing the relation of employer and employee—in other words, the right to strike. But they make the concession with reservations and qualifications which deprive their concession of nearly all its value. They say to the wage earners, "Yes; you may strike for a lawful purpose, but if the circumstances give warrant to a belief that you are inspired by malicious motives in striking, then your act of striking falls within the definition of conspiracy."

This view was fairly expressed by President Taft in the June number of McClure's Magazine, 1909 (p. 204). In that article Mr. Taft refers to several cases of injunctions granted by himself when a judge into which, for the purpose of giving effect to an injunction greater sanction of authority, he had imported from afar the theory of a boycott and strike combined. But he finally reached the strike question pure and simple and approved the doctrine of his own early decision in which we first meet the strange doctrine that a court may inquire into the motives of strikers.

The twisting and perverting a boycott element into strike cases subsequently became a feature of many strike injunctions. It was a feature in Paine Lumber Co. *v.* Neal in the District Court for the Southern District of New York, not officially reported, and in Sailors' Union *v.* Hammond Lumber Co., decided by the circuit court at San Francisco in 1907.

Opposition counsel, in referring to what Justice Holmes said in Vegelahn *v.* Gunter (167 Mass., 92), never omit to mention the fact that he was giving the opinion for the minority in that case, but never do mention the fact that these have since become the settled law in that State. I refer to Pickett *v.* Walsh (192 Mass., 572), already quoted.

The next limitation upon the power of the courts to be noticed is that whereby they are forbidden to enjoin any person or persons "from ceasing to perform any work or labor."

In discussing this provision, Mr. Hines, as representative of the railroads, said:

> Section 10 of the act to regulate commerce imposes penalties not only upon the common carrier, which violates provisions of the act, but also upon agents or persons acting for or employed by such common carriers.

Now, section 10 of the interstate-commerce act contains many penal clauses of a similar character. Is each of them to stand as a separate argument against any legislation to regulate the issuance of injunction now and forever? It would be difficult or impossible ever to make any such regulations unless the regulation of interstate commerce and of the conduct of carriers were simultaneously abandoned. It should be a sufficient answer to all that say that the Constitution of the United States supersedes the jurisdiction of courts of equity and prohibits involuntary servitude.

Justice Harlan in Arthur *v.* Oakes said something about certain circumstances under which men might be enjoined even from striking. Although it was a dictum, I respect it. He clumsily expressed the idea which Justice Holmes made clear in Aikens *v.* Wisconsin (195 U. S., 205). Any constitutional right may cease to become such when embraced within a comprehensive scheme of illegality. And that holds true whether or not a labor dispute exists.

But here we must distinguish between a mere strike and a scheme of illegality extending beyond and outside the strike. A strike which includes trespassing or destroying property or interfering with possession and use of property can, of course, be enjoined in so far as the strike becomes a component part of the conspiracy, but no further. On the other hand, if the act in contemplation be merely a strike, the motives are immaterial.

The argument of Mr. Hines is too broad and is easily reducible to absurdity by extension to other duties or liabilities of railroad companies. A conclusive answer is that both the companies and the employees are subject to penalties, and the companies are not prohibited from discharging unfaithful employees.

Human nature can not be dealt with by statutes directing persons to continue in incompatible relations or to endure intolerable conditions. The most solemn and formal contract is merely a social treaty, and contracts for personal service are in their very nature terminable. Specific performance through injunctive process, even if practicable at all, would be a cruel remedy. Even with respect to domestic relations injunctions are confined to property rights.

The next clause with its connection forbids an order or injunction to prevent anyone "from recommending, advising, or persuading others by peaceful means so to do"—that is, to terminate the relation of employment, or to cease to perform any work or labor.

This is fully covered by what has been or will be said under other heads.

We next have the prohibition against restraining or enjoining any person or persons—

from attending at or near a house or place where any person resides or works, or carries on business, or happens to be, for the purpose of peacefully obtaining or communicating information, or peacefully persuading any person to work or to abstain from working.

The objections to this clause are based wholly on misconstruction. Indeed, the only way to even plausibly oppose it is to extend its meaning by false construction. Even without the word "peacefully," as here used, the courts would never construe it to authorize an illegal act. Counsel in opposition, either innocently or willfully, overlook the fact that the formation of a conspiracy is itself an illegal act. And as to the difficulty of drawing the line between legality and illegality, it is not real, but purely imaginary. At any rate, any practical difficulty of discriminating would be no reason for opposing the legislative assertion of a correct legal principle. (Hale *v.* Henkel, 201 U. S., 43.)

Though out of its proper order, it seems more conducive to a clear understanding to here call attention to the last clause which qualifies and gives its tenor and tone to all the other clauses in the last paragraph. It will be for the courts to construe the section, and if anyone attempts to defend a conspiracy, coercion, threats, or any illegal act, however peaceful in form, because the word "peaceably" or "peace-

fully" is used, the court will give effect to the entire section, and read the last clause into every part of it as evidence that Congress did not intend to sanction a single unlawful act. The last stands as a saving clause, though appearing to be scarcely needed.

Since all the acts and conduct specifically mentioned in section 266c of the bill are lawful at all times and under all circumstances, who will say that it is unlawful for anyone to terminate, for any cause appearing to him sufficient, the relation of employer and employee? If conditions become intolerable, one should be, and is by law, excused for ceasing to perform any work or labor, and surely the giving of advice, whether wisely or unwisely, so to cease in performance should have no legal trammels upon it.

Counsel have striven to place upon these words a construction which would authorize a serious invasion of private rights. But statutes are construed reasonably and in the light of conditions and of any evils existing at the time and which are sought to be remedied. If you should examine the court orders that I have called to your attention, you would see the evil and need of a remedy. But you can see it in the official reports of cases. In addition to a few matters which, upon sufficient allegations—whether true or false I need not now discuss—the defendants are properly forbidden to do, such as trespassing upon private property, they are forbidden to persuade, peaceably or otherwise, the employees of the plaintiff to quit or unemployed persons not to enter his employ, and are sometimes forbidden to speak to them at all or even to approach them. I do not see how it would be possible for any court to construe that clause as legalizing the entering of anyone's house without his consent, or transgressing a law, or even violating a social propriety in any residence or other place. If so construed, it would be unconstitutional as relating to private residences, and I am sure we do not seek any unconstitutional legislation.

Moreover, outside of, and untouched by this provision, stands the police power. In addition to the constitutional right of all persons to defend and protect their homes from hostile or even unwelcome intrusion, is the right to call for police protection; and, as against a complaint or grievance of that sort, there is no pretense that the police are not ready to afford protection. Nor can any such showing be made, because the police are not only always ready but too willing to use their authority and force on such occasions.

I will in this connection refer for a moment to the attempt of counsel for several railroads, Mr. Hines, to give a construction to this provision which would enable crowds to assemble on railroad property and obstruct transportation. The answer is the same as before. There is only one direction in which railroads have ever looked for protection against all such interferences, that is toward the police power. They must look to and rely upon that hereafter as heretofore. Whether this bill passes or not, injunctions would be as ineffectual hereafter as they have been in the past.

The word peacefully, used here, might have been safely omitted, but is inserted in order to remove all doubt.

The conduct here exempted from injunctions has come to be known as picketing. Picketing is undertaken to preserve the status quo created by a strike. The act of picketing does not stand on the same basis as the strike. Though incidental thereto, it is nevertheless, in

most or all aspects, an independent proceeding affecting the employer with whom the strikers have their dispute, indirectly. In picketing, whether by peaceful methods or with violence, the picketers deal directly with third persons. Hence, it has always seemed that allegations concerning acts done by way of picketing a strike were foreign to the issue and totally irrelevant in complaints against strikers. It is otherwise of course where the picketing consists in, or amounts to, trespasses upon the premises of complainant, or otherwise inflicts upon him a direct loss. But I need not discuss cases of picketing involving trespass, because trespass disturbs the possession of property and is unlawful. Only lawful acts are covered by this bill.

Here is an excerpt from the opinion in Pierce *v.* Stablemen's Union (156 Cal., 70). It would read better, and be at least relevant if not material, if used in an action at law brought by the party impeded by the picketers while in quest of employment. I do not read it because I think it good law, but as an instance of perverted and erroneous view of the law. It is as follows (p. 79):

> The inconvenience which the public may suffer by reason of a boycott lawfully conducted is in no sense a legal injury. But the public's rights are invaded the moment the means employed are such as are calculated to and naturally do incite to crowds, riots, and disturbances of the peace. And as illegally interfering with his business the employer may justly complain when the rights of his nonunion employee and the rights of the public are thus invaded.

It is the last sentence to which I take exception.

In picketing cases, it is obvious that unless the picketers resort to trespasses on the premises of the complainant the conduct of the defendants complained of, if unlawful, is without essential connection with avowed purposes of the union; while if peaceable, amounting to no more than persuasion, the picketing should be exempt from injunctive restraint. Nevertheless, Federal, and some State, courts of equity have on several occasions exercised a power herein which was virtually police power and have gone even further in coercion and restriction than the police would be warranted in going.

That the act of picketing is distinct from the dispute proper, often governed by different principles, and requiring separate judicial treatment, was recognized by the Supreme Court of California in the case just referred to of Pierce *v.* Stablemens' Union. And the court in that case, while affirming an order granting an injunction, placed in the forefront of the opinion the assertion previously quoted, which reads rather strangely and appears somewhat out of place in an equity case brought against an organization of wage earners or an association formed for any other legal purpose.

The term "picketing" has been applied in all that class of cases where a party complains that he was being injured or his business was being interfered with by efforts of members of unions to prevent the places which they had vacated being filled or held by persons who sought employment or who might otherwise be employed in their stead. In some instances picketing has been resorted to in furtherance of a boycott, but such are exceptional.

In the category of picketing cases are the cases where the picketers are also strikers or are instigated by strikers, even where such strikers have term contracts with their employers, but have found conditions of employment outside the express terms of employment intolerable, or have found other pretexts for terminating the service, and nevertheless attempt to prevent the employment of others in their stead.

Whatever we may think of the morality of such conduct, it is evident that, in the final analysis, the jurisdiction in equity has no other basis than a theory that the employer has a vested property interest in the unattached labor of the vicinage.

There have been many injunctions granted in such cases. Hitchman Coal & Coke Co. *v.* Mitchell, Pierce *v.* Stablemen's Union, Sailors' Union of the Pacific Coast *v.* Hammond Lumber Co., Adams *v.* Columbia Typographical Union, and Kansas & Texas Coal Co. *v.* Denny were picketing cases. Pierce *v.* Stablemen's Union (156 Cal., 70) may be selected as a typical case. The court forgot or completely ignored the distinction between legal and equitable jurisdiction, as is evident from language found in the opinion (p. 78), where it is said:

> The two classes of persons to whom we have adverted and whose rights necessarily become involved where a picket or patrol is established are: (1) The rights of those employed or seeking employment in the place of the striking laborers; and (2) the rights of the general public.

Now, unless the employing capitalist has a property interest in mere labor power, holding true even in the absence of a contract of employment with the persons whose labor he requires, who are total strangers to the immediate dispute and whose names and identify may be unknown, it is impossible to find a basis for the jurisdiction in such cases.

And without such interest, all else being conceded, it is apparent that the only persons injured, in legal sense, by the acts or conduct on the part of picketers complained of are the persons themselves whom he otherwise might be able to employ but who are never made parties to the suit, at any rate in no case thus far reported.

Here, then, we have an additional reason for the provision in the clause we are now discussing which forbids the issuance of an injunction or restraining order against peaceful persuasion in furtherance of a labor dispute. The same defect of jurisdiction exists, of course, where the picketing amounts to threats of violence, but it is thought that labor will be sufficiently safeguarded if the bill be worded in the form as presented, that part to be considered in connection with other parts.

Were it not for a popular prejudice or perverted view, amounting when found in the judicial mind to a class bias, the applications for injunctions in cases of mere picketing would never be entertained for an instant.

Competition with its strifes, hardships, sacrifices, and losses is the price we pay for liberty. There is no end or cessation of competition between those engaged in what in restricted sense we designate as "business." Overpersuasion, misrepresentation, deception, all forms of overreaching, with a frequent resort to coercion and force, constitute what latter-day progressives of all parties call "unfair competition." But these have ever been incidents of competition and probably will always be found, anything Congress or other legislatures or the courts, may do to regulate business to the contrary notwithstanding. But the competition between labor and capital each for its share of the rewards of industry, and between persons seeking employment, which is also limited, as is trade, goes on likewise, characterized by the same regrettable but inevitable incidents.

Those who criticize and condemn the efforts of workingmen at organizing and striving in an organized capacity to prevent their places being taken by others, justifying the use of injunctive process against them, assert the right of every man willing to labor to obtain employment. That whole contention is based on the false assumption that there is employment in the world for every man desiring and competent for it. The sad truth is otherwise, and the concentration of industry in corporate form with the more efficient use of machinery on a large scale intensifies and constantly extends the evil of nonemployment.

The next clause reads thus:

Or from ceasing to patronize or to employ any party to such dispute.

The act which the courts are by these words forbidden to enjoin has been sometimes called the "primary boycott." The cases in which illegality attaches to the conduct thus described arises from conspiracies and must extend beyond the original parties. It is then called a "secondary boycott." The whole subject is more conveniently discussed under the next head.

We now come to the clause reading, "or from recommending, advising, or persuading others, by peaceful means, so to do"—that is to say, no party to a labor dispute shall be enjoined from recommending, advising, or persuading others by peaceful means to cease patronizing or employing any party thereto.

A preliminary question to be answered is, Who are the original parties to a dispute concerning terms or conditions of employment?

This is a question which if fully exploited would require repetition, and overlapping much that has been already said. But in order to clear up the fogs and mists raised by much misstatement tending to establish the impression that this clause legalizes, or at least forbids injunctive relief against secondary boycotts, the question of who are and who are not the parties to a dispute resulting in a boycott or blacklist should be here answered, if possible. In answering this question, we have the answer to the question of the distinction between the primary and secondary boycott.

Some courts have denied the existence of any real difference between a primary and secondary boycott; for instance, the Supreme Court of California, in Pierce *v.* Stablemen's Union (156 Cal., 70). I think myself that it is unwise statesmanship on the part of our judicial lawmakers to make any such distinction when they assume the task of enacting special laws for special cases in the form of injunctions. But the courts do recognize a technical distinction, and this bill follows the courts in that respect. So that, regardless of any personal views, I must follow the lines of the bill conforming to the views of the courts.

Here is an illustration of what I understand to be meant by a primary boycott. One hundred men strike, we will say, a stove and range company—the metal polishers' union. They are parties to that dispute. They go all over the United States and advise or persuade its customers to cease trading with it. They have that right by this bill; they have that right now. That is the primary boycott.

Now, one of these firms having refused to cease buying of the stove and range company, they institute a boycott against it. That is a secondary boycott. It is not touched by this bill, because such firm so boycotted is not a party to the dispute.

This provision bears alike on employers and employees. No employer can be enjoined from ceasing to employ or from peaceably recommending and persuading others not to employ any party to a labor dispute. It withholds from employees the injunctive remedy against the so-called blacklist, which is in vogue to a far greater extent than is the boycott. So the clause awards to employers and employees equal treatment. Now let us take any employer. He has a dispute with employees and discharges them and recommends, persuades, and advises other employers not to employ them, and if they follow his advice he has blacklisted them.

It is my belief that this corresponds exactly to what some courts call the primary boycott, and that was held even by Judge Taft to be legal.

But, now, suppose one of these other employers does not see fit to follow his advice, and in order to enforce compliance he gets others to join him in some retaliatory action toward the persons whom he has so advised. That would be going outside the dispute and he could be enjoined. The wrong might not consist in blacklisting, but that is immaterial. The essential idea is that it is a wrongful act and that two or more are acting in concert to perpetrate it. They could all be enjoined, anything in this bill to the contrary notwithstanding.

Now, revert to the employee again. He ceases to patronize A, with whom he has a dispute, and recommends others to also cease. If they cease, well and good; he is within his rights; but if B, one so advised, does not see fit to cease and the employee joins others in a boycott of B, that is a new quarrel. It can, notwithstanding anything in this bill, be enjoined, waiving for present purposes the question of property rights.

I will now give a clear instance of the secondary boycott of a slightly different kind. It is a very common instance which, however, we never hear of in the courts. There is, we will say, a manufacturer and dealer in stoves at St. Louis. It is, we will say an excellent article and could succeed on its own merits. But the company is tempted by a scheme for greater profits through exclusive markets and higher prices. Taking advantage of the popularity of its brand of goods in a wide section, it makes exclusive contracts with the stove dealers throughout that section, especially in the smaller cities and towns that these dealers shall put up the price of this stove and refuse to handle the stoves of that manufacturer's chief competitor in the manufacture of stoves, the advance on the usual and fair price to be divided between the manufacturer and dealer.

Now, that is an arrangement in restraint of trade; at any rate, the general scheme is a combination in restraint of trade.

So far we have only what may also be termed a primary boycott directed against the competitor. But suppose the agreement contains a stipulation that in case the dealer buys any goods from any other manufacturer the stove maker will refuse to sell him any more stoves on any terms, and the agreement is violated in that respect and the threat is carried out? There you have the secondary boycott. The agreement is itself a conspiracy in restraint of trade, because hurtful to public interest. It is also a conspiracy because attempting to sanction a secondary boycott to be inaugurated by one of the parties against the others in the event that one of them does not persist in performing his part in the primary boycott.

These are between business men. The country is overlaid with them, overlapping each other in all directions. They seldom or never come before the courts in private litigation, and, although high prices are extorted through such arrangements, public officers ignore them.

The view I have here taken of the question of what constitutes illegality in strike and boycott cases is that advanced by the Supreme Courts of Massachusetts, New York, Rhode Island, Indiana, Missouri, Montana, California, one or two other States, by Judge Sanborn in the case of Allis, Chambliss Co. *v.* Iron Molders' Union (166 Fed. R., 50), and the circuit court of appeals of the second circuit as expressed by Judge Noyes in National Fireproofing Co. *v.* Mason Builders' Association. By these courts the law governing strikes and boycotts is simplified, and the turning point of legality or illegality is found not in the act of striking or boycotting per se but in the means employed, or intended to be employed to carry it on. Of course workingmen may actually conspire, in criminal sense, as may others. But this bill leaves conspiracies untouched.

The provisions of this bill conform to these more recent, more humane, and more enlightened views. A few illustrative cases additional to those already discussed will be now briefly referred to.

In Jacobs *v.* Cohén (18 N. Y., 207, 211) the court, speaking of a strike, said:

> That, incidentally, it might result in the discharge of some of those employed, for failure to come into affiliation with their fellow workmen's organization, or that it might prevent others from being engaged upon the work, is neither something of which the employers may complain, not something with which public policy is concerned.

The Supreme Court of the same State, in Mills *v.* United States Printing Co. (99 App. Div., 605; N. Y. Supp., 185, 190), said:

> There is a manifest distinction, well recognized, between a combination of workmen to secure the exclusive employment of its members by a refusal to work with none other, and a combination whose primary object is to procure the discharge of an outsider and his deprivation of all employment. In the first case, the action of the combination is primarily for the betterment of the fellow members.
>
> In the second case, such action is primarily "to impoverish and crush another" by making it impossible for him to work there, or, so far as may be possible, anywhere. The difference is between combination for welfare of self and that for the persecution of another. The primary purpose of one may necessarily but incidentally require the discharge of an outsider; the primary purpose of the other is such discharge and, so far as possible, an exclusion from all labor in his calling. Self-protection may cause incidental injury to another. Self-protection does not aim at malevolent injury to another.

It will be seen that Judges Loring, Noyes, Sanborn, Holmes, McKenna, Holloway, Parker, and their associates, in the respective courts, refused to be moved by the pathetic appeals of counsel that some corporation or firm employing labor on a large scale was about to be financially ruined. They say that the rights of each of the many, though financially small in comparison, must be preserved though great losses may result to an individual; that injury inflicted from the exercise of a lawful right is damnum absque injuria.

It is impossible for the Federal Government as now administered to consistently condemn any form of the boycott. For good and sufficient reasons, no doubt, the Government has during the last four years prosecuted 370 boycotts against seed dealers, and is contem-

plating an extension of its boycott system. The Washington Star of July 27, 1912, contained a news item reading in part as follows:

> Promoters of fake orchard, irrigation, timber growing, and similar farming schemes, it is announced, can take notice that they are likely to be registered in a list of fraudulent companies now being prepared by the Department of Agriculture. The department is making a register for office reference only, but it is intended to protect investors who are wise enough to make inquiries before sinking their money in some advertised land scheme. The subject is rather a delicate and difficult one to handle, for Congress has made no provision for the department issuing a blacklist.
>
> Congress did this some years ago in the case of merchants selling adulterated seeds. The Secretary of Agriculture was directed to buy in the open market a certain number of seed samples, mostly forage plant seeds, annually. These were to be analyzed and the names of the venders and the results of the analyses published.
>
> This law is still in force, and the list is published each year. The analyses were revelations. Many of the samples were adulterated with 50 per cent of dirt, trash, and weed seed. A few of the samples were almost pure, and others had none of the forage seeds supposed to be sold at all. The publication of the names in the blacklist was remarkable, and few of the venders have ever been caught twice.

It will be observed that the Star, without the remotest semblance of propriety, places these crusades, designed to deprive so-called business men of their customers, in the category of blacklisting.

It is practically impossible to discuss the sociological and legal principles governing the strike and boycott and their involvements of organized labor fairly and intelligently without taking a risk of being misunderstood, misconstrued, and misrepresented. In the first place, the boycott is as defensible as the strike and they are equally subject to unmeasured and persistent condemnation by those not having the workingman's point of view. To say that men of a large class, such as wage earners of the country, may organize into unions, enjoy the right to freely speak and print their views, advocate social, industrial, and political changes, advance their collective and distinctive as well as their individual interests, peaceably assemble without limit for any and all lawful purposes, which necessarily includes the exercise of rights constitutionally guaranteed, and yet to assert a power in any branch of government to prescribe how or when or to what effect they shall organize, for what purpose they shall meet and commingle, what they shall say the one to the other relevant to their common or class interest, is not only unjust and dangerous doctrine, but partakes of the chimerical and impracticable.

The spirit of self-assertion and impulse to resent wrong, real or fancied, is too generally prevalent among a self-governing people to be controlled or subdued, even if all the courts in the country should devote their time exclusively to the attempt. How is it possible for courts of equity to deal with the innumerable, incessant, and interminable conflicts and competitions at work in every city, town, village, and neighborhood? If those between the industrial classes are to have the espionage and arbitrage of the courts, why not those between communities, nationalities, and religious denominations? These questions answer themselves. We need not defend the morality nor even the legality of strikes and boycotts, even if there were anything in this bill calling for such defense. I go to the point of saying that where there is no possible equity there is no possible jurisdiction, and since the exercise of the assumed jurisdiction without the infliction of more evil than good is inconceivable, it is well that it should cease.

To properly understand the point and application of the cases used in the report of the House committee, the fact must not be overlooked that after a labor dispute has arisen and the parties are strangers, in legal sense, that being the only conditions under which the provisions of the bill are applicable, a boycott consists wholly and exclusively of words spoken or written. If the parties speak truly, of course they are immune from legal consequences. If they speak falsely, of course, an action for slander or libel lies, or a prosecution may be instituted in most jurisdictions, even for slander. But to permit a court of equity to make a special prohibitory law for the case, in advance of ascertainment of the facts otherwise than before a jury with the privilege of cross-examination of witnesses, with penal consequences for disobedience, is, of course, to arbitrarily set aside all bills of rights and constitutional guaranties of free speech and free press. And this has often been done by one man acting without responsibility, exercising an unlimited discretionary power. In Dailey *v.* San Francisco Superior Court (112 Cal., 94; 32 L. R. A., 273) the Supreme Court of California, sitting in banc, issued writs of certiorari and prohibition quashing an injunction which had been issued by the superior court. Referring to the provision in the California bill of rights, the court said:

> The wording of this section is terse and rigorous and its meaning so plain that construction is not needed. The right of the citizen to freely speak, write, and publish his sentiments is unlimited, but he is responsible at the hands of the law for an abuse of that right. He shall have no censor over him to whom he must apply for permission to speak, write, or publish; but he shall be held accountable to the law for what he speaks, what he writes, and what he publishes. It is patent that this right to speak, write, and publish can not be abused until it is exercised, and before it is exercised there can be no responsibility. The purpose of this provision of the Constitution was the abolishment of censorship, and for courts to act as censors is directly violative of that purpose.

The next clause to be noticed is that which, taken with its connection, forbids the courts to enjoin any person or persons "from paying or giving or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value."

This, like the clauses relating to the withdrawal of patronage and employment, is limited to the parties to the dispute.

To such extremes are the opponents of the bill driven that they draw on their imagination and suggest all sorts of impossibilities. For instance, Mr. Monaghan (p. 83) says:

> In such an event, a labor union engaged in controversy with an individual manufacturer is justified not only in persuading and inducing in a peaceful manner the the employees of other institutions, which have beneficial business intercourse with the foundry struck, to leave this work, but in addition is permitted, without the possibility of equity interference, to offer or give bribes of money or things of value to the employees of a customer who continues to make use of the products of the struck foundry in order to injure dealer or customer who refuses to join in the boycott; men who are members of labor organizations may approach the clerks or the employees of an establishment that is making use of the products of the struck foundry and offer them bribes of money or things of value for the purpose of inducing them to quit work for that employer, or for the purpose of doing any other thing that might ordinarily assist them in that strike, provided no violence or threat of violence is used. The provision even enters into the transportation of goods by freight and into matter of inducement by bribe on the part of labor organizations to procure the employees of interstate carriers to refuse to handle the freight belonging to the struck institution.

Here we see how obsessed have become the minds of men engaged in big business and their attorneys, and to what an extent they have come to rely on injunctive processes as weapons with which to defeat

labor in its struggles for better wages and conditions. They look to it as a remedy for all conceivable evils. It is true that labor organizations might resort to bribery to accomplish their ends; it is possible that in some rare instance they have already. But to state it very conservatively, that is not the form or kind of bribery and corruption of which the public complains or upon which its attention has been fixed, either in former or more recent times. And whoever before heard an injunction suggested as affording any protection against it?

There are, however, more conclusive answers which will readily suggest themselves to all who are not blinded by their viewpoints, as is Mr. Monaghan and most of the others who have appeared in opposition.

Other strenuous efforts have been made in argument to show that even this harmless liberty of paying strike benefits might be perverted and abused. I suppose any man with an abundance of cash could aid any other lawful organization to which he belonged in carrying out its purposes or receive assistance from it to the same end without his right to do so being questioned. But when the right of an association of workingmen to do so is sought to be recognized learned counsel are sent here by employing corporations to deny the right and to denounce its exercise as something fraught with danger. The question as to the lawfulness of the act is settled, as I agree it should be settled, by the Federal courts themselves. In A. S. Barnes & Co. *v.* Barry (157 Fed. R., 883) it was held without dissent or qualification that—

* * * The strike-benefit fund is created by moneys deposited by the men with the general officers for the support of themselves and families in times of strike, and the court has no more control of it than it would have over deposits made by them in the banks.

I note that Mr. Hines took care to call the attention of the committee to two State cases—A. R. Barnes & Co. *v.* Chicago Typographical Union (232 Ill., 424) and Reynolds *v.* Davis (198 Mass., 294),—but holding contrary to my contention, but neglecting to cite this Federal case, which also accords with latest English authorities, cited in House committee report.

The next clause to which I direct attention is this, "or from peacefully assembling at any place in a lawful manner and for lawful purposes." This means of course assemblages where they have the right of assembly in their usual places of meeting, or on grounds where the right is public, or on premises where they have permission of the owner or person in possession. Any other assembling must be by ovecoming resistance and in addition to being unlawful, could not be peaceful.

It is strange that any one can be found to criticize this clause. And yet Mr. Monaghan, as the basis, or major premise, for opposition, makes this very correct, but totally irrelevant statement (p. 83):

What "lawful purposes" are is modified by what goes before. It is not now considered lawful for a body of men to assemble upon the premises of a struck manufacturing establishment nor in the immediate vicinity of a struck manufacturing establishment for the purpose of persuading the men in that establishment to quit their work.

And in Mr. Hines's statement to the committee fears are expressed that this may be held, or may be used as a cloak for trespasses on railroad property. Though there may possibly have been instances of attempts at such assemblages he failed to mention any. But railroads have never relied upon injunctions as a protection against them

and never will, no matter what may be the state of the law. They have found the police forces their sole and safe and adequate reliance.

I now have reached the final clause in the bill, being the concluding clause of section 266c, and reading thus: "or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto."

Though this has been discussed at some length in another connection, a brief and more critical view of it may be here properly expressed.

The great truth that the legal quality of an act is never changed by the existence of a labor dispute seems not to have dawned upon, or, at any rate, not to have impressed the opposition; nor its twin truth, that to thinking otherwise is due many abuses of the injunctive process. As has been conceded in the statement of Mr. Davenport, and as seems to be the view of the subcommittee, the word "lawfully," as here used, "colors" the entire paragraph and must, of course, apply to each case as it arises. Nor with that word used, as here used, could the interpolated construction apply anywhere.

PROVISIONS OF ANTITRUST ACT NOT AFFECTED.

Considering the environment and business methods of those responsible for the opposition, their solicitude for the safety and preservation of the antitrust act is surprising and unaccountable.

The bill does not modify or touch the antitrust act. The reason is simple. It does not withdraw the injunctive process from any unlawful act. No one can claim that it touches in any way any form of contract in restraint of trade, or any other description of contract, except, perhaps, contracts for personal service. And contracts for personal service are not within the act, because essentially local. (Williams *v.* Fears, 179 U. S., 270.) What else does the antitrust act reach? Why, conspiracies and combinations in restraint of interstate commerce.

Conspiracy and combination, within the meaning of that act, mean almost the same thing and are affected exactly alike. For the purposes of this bill they are exactly identical, in that they are both excluded from its operation. To form a conspiracy, to carry on a nation-wide boycott, as in the Loewe *v.* Lawler case, could not be lawfully done either in the presence or absence of a trade dispute, nor if the Sherman Act had never been passed.

The antitrust act is a penal statute. The civil remedy by injunction is superadded. It is an unusual and exceptional use of injunctive process. Congress can, of course, provide any means and instrumentalities, within the Constitution, which it sees fit. I have never denied to Congress the power to provide that or any other remedy, even for the prevention of injuries to personal rights which are committed to it to protect. For such purpose it can confer extraordinary, even unheard-of, jurisdiction upon the courts. But Congress has never given the courts jurisdiction to protect by injunction a personal right other than that conferred in the antitrust act. Nor is that confined to the protection of any individual, but of the public at large.

A private party who has sustained special injury by a violation of the Federal antitrust act may sue in a federal court for injunction under the general equity jurisdiction of the court, where, by reason of diversity of citizenship of the parties, the court has jurisdiction of the suit (Bigelow *v.* Hecla Min. Co., 155 Fed. R., 869.)

In this case the whole question was reviewed, and the conclusions reached do not conflict with decisions denying general jurisdiction to grant relief to private parties by injunction under the antitrust act.

In Loewe *v.* California Federation of Labor (139 Fed. R., 71) was involved a boycott by a local association of Triest & Co., a San Francisco firm. Jurisdiction was exercised solely on the ground of diverse citizenship, and neither the antitrust act, nor interstate commerce, was mentioned. The order went only against local persons.

This bill leaves the law of conspiracy untouched. Mr. Davenport gives an illustration of how, according to his view, one of these lawful acts mentioned in the respective clauses of the last paragraph of section 266c might be illegalized. His illustration is striking and flawless, and the doctrine of Aikens *v.* Wisconsin (195 U. S., 205) is unassailable. But as already fully shown, the formation of a conspiracy is itself an independent and distinct act, legally isolated from any act mentioned in the bill.

SPECIAL PLEAS ON BEHALF OF RAILROADS.

It seems proper before closing to notice some special pleas interposed and extraordinary arguments advanced by attorneys representing the principal railroads of the country.

No one appreciates more than I the value to the public of railway service as well as the necessity of having the requirements of the interstate commerce act complied with. But is it necessary, in order to secure efficient service and compliance with the law, that we leave in the hands of the judiciary those arbitrary police regulations which enable them, every time a labor dispute arises, to completely tie the hands of railway employees and drive them hither and thither, like so many cattle? I think not. In fact, I know it is not. And even if I thought otherwise, I would rather see the Government take charge with an armed force when an extensive strike occurs, protecting alike the property of the railroads and the liberties of the strikers until the trouble would be adjusted, than see exercised the despotic powers which these gentlemen claim for the Federal courts.

Their objections to the various provisions of this bill resolve themselves into complaints as to relative convenience of the present vogue in comparison with the inconvenience to result if the abuses and usurpations of the judiciary are discontinued. It would not change or modify my view and my attitude even if I thought that every railroad employee in the country was satisfied with the present condition in which, as against the power now exercised by some of the courts, they are as utterly helpless to assert themselves to the full limits of their rights as if they were subjects of an absolute olden-time monarch. I would not give my consent to a despotic tribunal, rearing its head, casting its shadow over the land, exercising legislative and executive powers, even if I thought those whose liberties are imperiled would consent to be so degraded and enslaved.

I shall, for the most part, ignore all those recitals of the duties of carriers as to rates and prompt service to shippers. The Government has complete control of rate matters, and I feel sure that it will not oppress the railroads on account of any unavoidable failure to comply with the law. As to liabilities incurred by the carriers to

shippers, the latter have always been reasonable. At any rate, liberty and the constitutional rights of men have been seldom before so coolly and deliberately measured in argument by dollars and cents.

Mr. Hines calls attention to the fact that certain duties prescribed by the interstate-commerce act are the very duties interfered with by the strike of 1894, which, I believe, has gone into history bearing the name of the "Debs strike." That strike, occurring 18 years ago and standing unique and alone, has been harped on in every argument and in almost every phase of all the arguments in opposition. Its incidents and certain phases of it, which no one more seriously regrets than do the railway employees of the country, have been worked into this discussion for all they were worth.

In fact, they have been overworked, because what then occurred as a basis of court proceedings and military action finds neither equitable protection nor legal sanction in any part or provision of the bill, nor in the bill as a whole. Those acts constituted, according to all the definitions, one entire boycott and strike combined. It was what all who make such a distinction designate as the secondary boycott. Sufficient record may be found in 158 United States, 564, to show that it was a boycott of the Pullman Co., an industrial corporation presenting all the phases of the Leowe *v.* Lawlor case. The latter did not interfere with the actual movement of commerce, though held to be made up of a series of secondary boycotts. The Debs case, on the other hand, was not peaceful, but involved violence and threats. It was not attended with any regard for the rights of others, but was attended with trespasses on private property, the burning of cars, disabling of rolling stock, and the like.

Notwithstanding the attempts here made to use the Debs case as a precedent of value, there never was a clearer case for an injunction for the protection of property rights.

Mr. Hines gives the committee the benefit of extracts from a socialistic sheet published in East St. Louis, and then recites various acts of vandalism, each of which was a trespass on property as well as a disturbance of possession.

Why didn't he make a manly and outright admission that he wishes the power left with the courts to enjoin peaceful persuasion, peaceful picketing, lawful assemblages, and all the other fundamental rights specified in the bill. With the power in one hand to collect not mere millions but billions of revenue in the form of excessive freights and fares, he objects to relinquishing any part of the power held in the other hand to subjugate and enslave 1,600,000 railway employees with usurpatory blanket injunctions. Again and again he reverts to the public responsibilities of carriers under the interstate commerce act as if the labor which keeps all the wheels turning were a negligible quantity in railroad operation. Does he wish to convince Congress and the public that regulation is fraught with greater evils than benefits? Is it his purpose to prove that the time foretold by Mr. Bryan has already come; that regulation has already proven a failure and the time for complete Government control or ownership is at hand? His arguments point more directly that way than to any defects or excesses in this bill.

I shall not have time to-day for a minute criticism of Mr. Hines's argument. If I did, I would find something to criticize in almost every paragraph.

I will also revert to three cases which have been referred to time and again and overworked in argument by the opposition.

To see that the Debs case in the lower court can not be properly used in the discussion of any provision of this bill, in view of established legal principles already discussed, it is only necessary to look at the case itself. The gist of the case is stated in the eleventh paragraph of the syllabus (64 Fed. Rep., 725) in these words:

> Where defendants, directors, and general officers of the American Railway Union, in combination with members of the union, engaged in a conspiracy to boycott Pullman cars, in use on railways, and for that purpose entered into a conspiracy to restrain and hinder interstate commerce in general, and, in furtherance of their design, those actively engaged in the strike used threats, violence, and other unlawful means of interference with the operations of the roads, and, instead of respecting an injunction commanding them to desist, persisted in their purposes, without essential change of conduct, they were guilty of contempt.

In the principal case out of which this contempt proceeding grew the defendants were charged, as is shown in this case, with taking possession of, firing upon, and setting fire to cars. (See 64 Fed. R., 728.)

As further showing the basis of the jurisdiction exercised in that case, I refer to a synopsis of the points and authorities presented by counsel and relied upon, the same being one ground of the decision of the court. The synopsis is, in part, as follows:

(1) Any interference with property in the custody of the court is a contempt (citing authorities). (2) Such, also, is any act of interference by force or threats with employees in charge of such property (citing authorities). (3) Aiding, advising, or persuading another to do a forbidden act or even permitting another whose action can be controlled to do the forbidden act is contempt (citing authorities).

But another ground of the jurisdiction was that the conduct of all the defendants in combination constituted a public nuisance. I will not attempt an elaboration of the exceptional jurisdiction based upon the suppression of purprestures and nuisances.

It is fully expounded both by Judge Woods in this case and by Justice Brewer in the Supreme Court. (158 U. S., 586, 589.)

In Bitterman *v.* Louisville & Nashville Railroad Co. (207 U. S., 205) the lower court had enjoined ticket brokers from dealing in nontransferable railroad tickets on the ground that they were thereby inducing the holders of such contracts (tickets) to violate their contracts. Of course, the rights secured by enforceable contracts, such as these were, are property rights, and it did not require this decision to so establish so well-known a principle. And the basis of the jurisdiction dwelt upon by the Supreme Court was the property interest which the railroad company retained in the tickets by virtue of the forfeiture clause, expressly held by the court to constitute a property interest.

Since the expression of Justice Harlan in the course of a rhetorical opinion to the effect that the right of a corporation to make contracts is a property as well as a personal right is no authoritative value in a discussion of this bill, I shall not devote the time and labor which would be necessary for the purpose to criticize it. Nor shall I pay more than a mere passing notice to another expression in his tremendously brilliant discourse. He also said:

> The right of a person to sell his labor upon such terms as he deems proper is, in its essence, the same as the right of the purchaser of labor to prescribe the conditions upon which he will accept such labor from the person offering to sell it (p. 174).

Now, the learned justice's conception of labor is that of a commodity in the market. And if it can be kept on tap, or canned up until a purchaser appears it is indeed difficult to see why a breach of contract to deliver it can not be enjoined; but he proceeds immediately to say:

> So the right of the employee to quit the service of the employer, for whatever reason, corresponds with the right of the employer to dispense with the services of such employee.

And in support of this very correct statement he cites numerous authorities, among which is Arthur *v.* Oakes, decided by himself.

Now, I will show the worthlessness and irrelevancy of all these cases by the words of Mr. Davenport, who made most frequent and persistent use of them:

> Under the decision of the United States in this Adair case, and supported by a very large number of decisions everywhere, those things that in the Pearre bill were sought to be declared not to be property and property rights and would be covered by the first clause of this bill [section]. So that you could go into court and seek to protect your rights under the first clause of this bill [section].
>
> But the bill goes on, then, to say that a certain class of acts attacking your property right shall not be enjoined against, and this is the way it reads.
>
> Senator SUTHERLAND. May I interrupt you again? I had understood—I do not know where I saw it or where I heard it—that it had been claimed that the provision in this bill now pending, with reference to property rights, would not include the right to do business. I wondered what the foundation of that was.
>
> Mr. DAVENPORT. In construing this bill I suppose the courts would say that what the courts have said time out of mind are property rights would be covered by that first section, and that when it says that "unless to prevent irreparable injury to property or to a property," whatever fell within that definition of property would be covered by the terms. (P. 22, pt. 3, Senate hearings.)
>
> As I stated the other day, if this bill were passed, the law would still be unchanged as to what is lawful and what is unlawful. Its sole effect, and, as I understand it, the sole purpose of those gentlemen who took the responsibility of recommending it to the House of Representatives, is simply that it takes away the injunction process; it is an anti-injunction bill; it merely deprives the injured party of his relief in equity.
>
> The committee will see that the purpose of this law, if it were enacted, and it had the construction which its advocates contend for, its effect would not change the law as to what property is nor to make lawful those things which are now unlawful, but simply to take away from the persons whose property rights are affected by the unlawful acts the right to go into court of equity and seek the protection of an injunction. Indeed, if you will look at this bill closely, I think the courts in their struggle to maintain the law would be very apt to say it does not even do that, because if you will look at this last section 266c, apparently the last clause, colors all that has gone before, "or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto." (S. hearings, p. 256, pt. 4.)
>
> You can not enjoin them from doing lawful acts. A court of equity will turn you out in a minute unless you bring your case within jurisdiction of the court. You have to show that unlawful acts are being done, you have to show why they are unlawful, you have to show the injury is irreparable, and you have to show you have not that adequate remedy at law which is essential. The law now is that f these things are lawful they can not be enjoined by a court of equity; they will not be, and they never are. (Senate hearings, p, 271, pt. 4.)

The substance of all this is that Mr. Davenport, leading counsel in opposition, says: (1) I am dwelling on the Adair case (and he might have included the Debs and Bitterman cases), notwithstanding that it is entirely irrelevant. (2) The bill will not admit of a construction which forbids an injunction to prevent any unlawful act, since the last clause colors and controls all the preceding. (3) The bill does not forbid equity to enjoin illegal acts, and equity will not enjoin lawful acts.

QUESTION OF CONSTITUTIONALITY.

I shall not devote much time on the question of constitutionality, though hours of the subcommittee's time has been given up for what I consider to be absurd attempts to show Congress to be destitute of power to enact this or any similar bill. I shall not interpose what might be called a constitutional argument, properly so called, since that appears to be entirely unnecessary; but in order to remove a possible doubt in any mind I will condense a few propositions and citations.

The contentions of counsel when reduced to simplest terms mean just this: That when Congress had acted under its constitutional power and had established a Federal court, common law and equity powers of courts immediately flowed out of the constitution into these judicial receptacles. It is only necessary to briefly examine this new doctrine to see the absurdities to which it would lead.

Here is an important fact, persistently overlooked in discussions of counsel. The common law courts of England, from King's Bench down, in addition to administering statutory law and the common law proper, exercised certain parliamentary powers, so called to distinguish them from the legislative powers of Parliament, but which were in substance and effect powers of legislation. That is to say, they assumed the prerogative of determining what public interest and policy required, if the question had not been irrevocably settled by precedents. In our schemes of government, National and State, as has been many times decided, courts have nothing to do with the policy of laws. It is their function to ascertain and declare what the law is, leaving questions of policy to the legislature. In the English system the legislative and judicial departments were, and are, entirely independent of each other.

It is true that the courts are bound by acts of Parliament, as construed by them, but outside the statutes their powers were as free from limitations as those of Parliament itself, they being here the exponents and final arbiters of public policy for the Kingdom. Many common-law rules and principles were established in the exercise of these ultra-judicial powers. The framers of the Constitution were familiar with all this, and their knowledge of it was no doubt a predominating reason for rejecting the common law as a part of our system. The result is that our Federal courts possess the equitable jurisdiction of English chancery courts, but do not possess their extra-judicial, or legislative, powers. When we speak of the powers of our courts we mean their jurisdiction, including what may be termed their implied jurisdiction, meaning those powers which are necessarily incidental to the effective exercise of the jurisdiction. And when Congress sees fit to limit or subtract from the jurisdiction, the incident, to wit, the power, falls with the principal thing.

It is true that in the part of the Constitution providing for the judiciary jurisdiction is confined as there specified without limitation or reservation. It does not follow, however, that the jurisdiction is not without limitation in the Constitution. It is necessarily subject to such limitations and exceptions as may be imposed by Congress, which by the same instrument is given power to establish the courts, and by necessary implication, to define and limit, as well as from time to time to subtract from, the jurisdiction.

But it is said that to concede this would be conceding to Congress the power to destroy the courts. This is undoubtedly true, but what of it? There never has been a time from the assembling of the first Congress to the present when Congress had not the power to destroy, not only the courts but the executive department, and even itself. This is well known, and the methods by which it might do this are obvious; but a supposition that the Congress would ever do such any thing is so ridiculous that the topic need not be pursued in detail.

The authorities in support of the foregoing propositions are ample. In Cary *v.* Curtis (3 How., 236, 254) the Supreme Court said:

> The courts of the United States are all limited in their nature and constitutions, and have not the powers inherent in courts existing by prescription, or by the common law.

In section 720 of the Revised Statutes of the United States we have a statute prohibiting the courts from issuing injunctions in certain cases, and the constitutional validity of that statute was upheld in Sharon *v.* Terry (36 Fed. R., 365). And an examination of the judiciary act of 1789 will discover therein many limitations upon jurisdiction not to mention subsequent statutes. The cases of Ex parte Robinson (19 Wall., 505) and Finck *v.* O'Neil (106 U. S., 272) may also be cited as authority to the same effect. In the latter case it appeared that Congress had taken from the court all power to enforce its judgments, and the act of Congress was upheld by the Supreme Court. In the opinion we find these highly significant words:

> The United States can not enforce the collection of a debt from an unwilling debtor except by judicial process. They must bring suit and obtain a judgment. To reap the fruit of that judgment they must cause an execution to issue. The courts have no inherent authority to take any one of these steps, except as it may have been conferred by the legislative department; for they can exercise no jurisdiction except as the laws confer and limit it.

A number of State cases have been desperately resorted to by opposing counsel to supply the lack of Federal authority. But the constitutions of the various States themselves provide for and establish the courts, partition the powers of government in detail, prescribing safeguards and limitations; whereas, in the Federal system full and complete control of the matter has been delegated to Congress. Nor should the fact be overlooked that State decisions on the subject are often based upon precedents of the common law, which, as is well known, is no part of the Federal system. A striking illustration of this divergence of State from national view is seen in Ex parte McCowan (139 N. C., 95), where it was said:

> We are satisfied that at common law the acts and conduct of the petitioner, as set out in the case, constitute a contempt of court, and if the statute does not embrace this case and in terms repeal the common law applicable to it, we would not hesitate to declare the statute in that respect unconstitutional and void. * * *

Gentlemen of the committee, I feel that I should detain you no longer. Thanks, for your patient attention.

STATEMENT OF HON. FRANK BUCHANAN, M. C.

Mr. BUCHANAN. If the committee please, I would like to have an opportunity to make a statement orally or in writing or in some other way in denial of a charge by inference which was made by Mr. Emery

in a way in the hearing. I would like to make this statement either now or at some other time. He has made the charge by inference here that during the time I was international president of the structural iron workers, several years ago, I had authorized the expenditure of money in an illegitimate manner. I want to say there is no foundation of truth for any such assertion. My record as a laboring man and executive head of that organization will bear out the statement that I was for peaceful methods all the time. We spent no money of that kind during my time. We did not have it to spend, and I never authorized any such expenditures of money at all.

The statement that is made here by inference is, I want to repeat, without foundation in truth. I had nothing to do with the trouble that was existing at that time. I do not have any memory of it at all.

Mr. EMERY. I made no statement of that kind. You refer, doubtless, to a letter presented by Mr. Drew in his discussion.

Mr. BUCHANAN. These are the words:

Mr. EMERY. Mr. Chairman, may I have just an instant of the committee's time to emphasize and call to their attention the letter to which Mr. Herrod just referred, which was put in the record by Mr. Drew previously, and he offered the committee at that time a photographic copy of the letter? I ask the committee's special attention to it for the reason that it disclosed the acts not of an individual nor of a small group of men, but of the representative of some 18,000 men, members of the American Federation of Labor, in good standing, for whom Mr. Gompers appears in asking this legislation.

I ask the committee's special attention to this, because I desire to make the matter a subject of some argument, it being the representative act of 18,000 men through their officers. If there is any question as to the authenticity of that letter that President Buchanan referred to, who authorized the payment of a per diem sum to a man who committed an offense during the term of imprisonment which was served in the interest of the organization, is a Member of this Congress, sitting here now; and if there is any question of the authenticity of that letter it can be readily settled.

If that was not an inference that I was authorizing money to be spent illegitimately, I do not know what it is. I had no authority whatever to authorize the expenditure of moneys, and I did not exceed my authority. I was only called into those difficulties when it came to be a matter of settlement by peaceful methods. My main trouble in the labor movement was opposing the element that was using those violent, rough methods. The newspapers of New York City of 1903 would demonstrate that at the time I was in severe contests opposing the very methods that Mr. Emery infers I authorized the expenditure of money for.

In this case this had nothing to do with the international organization so far as I know anything about it. If this letter is correct, that McNamara wrote such a letter at that time, he wrote what was not true. The only money that I authorized to be spent was in the way of organization work, which I had authority to do only when authorized to be done by convention. We did not have any reserve fund for strikes or anything else of that character.

The CHAIRMAN.. The committee will stand adjourned, subject to call of the chairman.

Thereupon, at 4.15 o'clock p. m., the committee adjourned, subject to call of the chairman.

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